

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, MARCH 11, 1999

Chairperson McLaughlin called the meeting to order at 1:30 p.m. at Cavanaugh's Ridpath Hotel, Spokane, Washington. She introduced the members of the Commission and staff present, and explained that there are no ex officio members present because they are in legislative session.

MEMBERS PRESENT: **LIZ McLAUGHLIN**, Chairperson;
MARSHALL FORREST, Vice Chair;
EDWARD HEAVEY, **CURTIS LUDWIG**, and **PATRICIA L. HERBOLD**

OTHERS PRESENT: **BEN BISHOP**, Executive Director;
SHERRI WINSLOW, Deputy Director of Operations;
ED FLEISHER, Deputy Director of Policy and Government Affairs;
CALLY CASS-HEALY, Assistant Director of Field Operations
DERRY FRIES, Assistant Director of Licensing Operations;
BOB BERG, Assistant Director, Special Operations;
AMY PATJENS, Manager, Communications and Legal Department;
JONATHAN McCOY, Assistant Attorney General; and
SUSAN YEAGER, Executive Assistant

LICENSE APPROVALS

NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS

Commissioner Herbold moved to approve the new licenses, changes, and tribal certifications as listed in the agenda pages 1-20; **Commissioner Forrest** seconded the motion. **Commissioner Heavey** asked why there are separate listings for E-H card rooms. Are these people just employees or are they gambling managers? **Mr. Fries** answered that these are employees who supervise gambling activities operated by charitable/nonprofit organizations. **Commissioner Heavey** asked why there is a gambling manager there. **Mr. Fries** said that classification to designate their managerial duties. **Commissioner Heavey** said they're just the same as card room key employees. **Mr. Fries** said yes, basically. *Vote taken; motion carried with five aye votes.*

REVIEW OF FRIDAY'S AGENDA

Ms. Patjens said there are two changes to today's agenda. The first has to do with the card room contracts. Great Wall of Tacoma will not be going forward today. The second change has to do with the Phase II reviews -- Parkers in Shoreline will not be going forward either. These two would probably be presented next month. On tomorrow's agenda there are two staff reports, both by Ed Fleisher. One is an update on the legislative session and the other is an update on the Tribal Lottery System to let the commissioners know what has progressed. There will also be two sets of rules. The first is a set of bingo rules up for discussion and possible filing, and the second is the set of card room rules. Last month, Sherri Winslow did a review of those rules, but they were just up for discussion. Now they will be up for discussion and the staff is requesting that they be filed.

STAFF REPORT

CARD ROOM RULES AND POLICY ISSUES

Ben Bishop, Executive Director

Director Bishop said he would provide a brief overview of the policy issues related to card room rules, including at least the following: wagering limits, table limits, operating hours, and commercial stimulant requirements. During last month's presentation by Ms. Winslow, several questions came up and today's presentation would address some of those. He said he thought it would be helpful to look at these policy issues from three different periods: 1) before the pilot program, or pre-1996; 2) what has occurred during the pilot program, and 3) what is currently in the rule package before the commissioners today for permanent rules. The policy issues do not encompass all of the policy issues regarding social card rooms. They do involve the major issues that do not have any regulatory theme to them – things like the mandatory records or whether they have a surveillance system.

Chairperson McLaughlin asked if card games that are house-banked are still considered "social card games."

Director Bishop said that under the definition of "social card games," it includes any game that the Commission may authorize. "Card game" encompasses gambling and may include house-banked card games. **Director Bishop** said there are three areas that give the Commission authority and the discretion to set policy. RCW 9.46.0282 and RCW 9.46.0325, which authorize the Commission to grant licenses to operate social card games for food and drink businesses and, finally, RCW 9.46.070, which has all of the powers and duties set forward. There are at least four areas. The first is a social card game is a game that the Commission can approve. Within the definition it says they can adopt rules for regulating social card games including collection of fees, limitations on wagers, and management of player funds. Finally, it allows them the ability to set the number of tables not to exceed 15. RCW 9.46.0325 authorizes food and drink businesses to operate social card games as well as punchboards and pull-tabs. RCW 9.46.070 allows the Commission to regulate the wagers and prizes for all activities including social card games. Twelve is specific to card games and allows the regulation of fees that would be charged to anyone to participate in a card game. RCW 9.46.070 (14) gives general authority to adopt rules necessary to regulate and control gambling. Finally, there is a cover-all that basically they can perform any of those functions that the Commission has deemed necessary to carry out the purposes of the section.

Director Bishop said he would not spend time on the policy issues they would be discussing today – number of tables, number of players at a table, types of games, limitations on wagers, rules of play, collection of fees, hours of operation, and finally management of player funds.

Number of tables – the final rules will be in RCW 9.40.030. He explained that the commissioners could refer to handouts they received, which had the draft WAC rules. Pre-pilot program – there were two limitations. The Legislature in RCW 9.46.0281 had allowed the Commission to authorize up to five tables. So there was a legislative restriction on that. Actually, when card rooms were first approved, it was solely under the discretion of the Commission, but in the early 1980s, the Legislature came back and put on the maximum of five limitation. During the pilot program in 1996, the definition of social card games was changed to allow the Commission to authorize up to 15 tables. During the pilot program, they have recommended allowing -- and they have approved by contract -- up to 15 tables for several licensees. The last time he looked the average for the ones that were in the program was a little over 10.

Number of players -- the number of players has been limited by the number of cards that were available in a deck of cards – 52. Only so many people can play seven-card Stud or five-card Draw. He said the original setting of 10 players was set for Poker because five-card Stud could be played if everyone stayed, which is not likely to happen during a game – but it still takes 50 cards to do it. With the invention of Hold-Em, more than 10 people at a table could play so the licensees had asked that the Commission to approve it. The Commission approved for Poker purposes only an exception to the 10 not to exceed two tables. The largest card rooms could have up to 12. This was just another way of obtaining more revenue because now more people seated at a table could be charged without expanding the number of tables. Also during the pre-period, they did not have house-banked games so there were no limitations on it. During the pilot program for Poker and Washington Blackjack the tables remained at 10 with the exceptions allowed to go up to 12 if they were playing Poker. They ended up with nine tables in house-banked games. Although there were nine players, that was informal, it was not authorized by the contract or by any rule. Several licensees came up with the Blackjack tables with nine positions on them, so the staff allowed them to go forward. With the permanent rules for Poker and Washington Blackjack and other games -- the staff is authorized and put in the rule that it dropped back to a maximum of 10

with no exception for a Poker game to go to 12. The licensees have the opportunity to have more tables now under the new rules. There's no reason any longer to have a 12-player exception for Poker.

Chairperson McLaughlin said that if there were any questions during the presentation, they could be asked as he goes along.

Director Bishop continued his presentation.

House-banked games – Permanent rules. The staff recommends seven although they have nine – there are lots of nine-position Blackjack tables out there. What they found from a regulatory perspective was that nine players around a Blackjack table becomes too crowded and they were having trouble getting good surveillance shots. It is also very hard to control with that many people crowded standing around the table. It lends itself to an environment that a dealer and probably a pit boss, unless he is really tuned in on it, would have a hard time seeing people trying to cap bets which cards or whatever so they've recommended seven although they did allow that they could still have nine wager positions and that would allow a player to play more than two hands if there were positions open.

Commissioner Ludwig wondered where else outside the state of Washington they're using nine player-spots or spaces on Blackjack tables. **Director Bishop** said he personally had never seen it outside the state of Washington, and not until he saw it in tribal casinos within Washington. He said he thought the reason was to have the ability to put more players around the table, since the number of tables in tribal casinos was limited to 52, and it was not an issue they had addressed in the compact.

Commissioner Ludwig said he wondered about that number. When they look back to the legislation it says "limit of 15 tables." That's 105 players for traditional Blackjack tables and he thought they ought to put some kind of a limit – say, 15 tables -- and limit it to 105 player positions. **Chairperson McLaughlin** said that would make seven. **Commissioner Ludwig** said when it was increased from seven to nine, the table capacity or player capacity is, in effect, increased from 15 to 19 tables. He said he did not think that was the Legislature's intent. **Director Bishop** said it would be appropriate to make any modifications tomorrow when they go to file these particular rules. **Commissioner Ludwig** said it was not his intention to make suggestions today.

Chairperson McLaughlin said she played Blackjack for the first time in Laughlin, Nevada, recently and there were no tables that had even seven people at them. She said she realized they have a lot more table capacity, but the game went very slowly. She said there were nine of them up there. **Director Bishop** said he attended a class at the University of Nevada and one of the speakers talked about hands per hour, which he thought was maybe the objective that they found would lower the number of players at the table. More hands per hour could probably be dealt than it would be possible with more players.

Types of Games – Pre-pilot program. Basically, these were games between players: Poker, Bridge, Rummy, Cribbage, those types of games. Also included some tile games. The pre-'97 change to the definition of card room included the game of Mah Jongg, which is played with tiles. From that, three or four years ago in response to a request, the Commission authorized dominos, another type of tile game. They also on a test basis had allowed Pai Gow to be played traditionally with the tiles. Under the pilot program, they still had those same games between players, but also included house-banked games: Blackjack, Let It Ride, Caribbean Stud, and Spanish 21. Most of the other ones are novelty games and people have patents on them, and also under the pilot program, authorized player-supported prize contests whereby in any game a contest could be held where someone got a good hand. It was based on card, but not based on whether they won the hand of Poker or not. These had never been allowed prior to the 1996 law. Under the permanent rules, games between players, what has been removed now is Mah Jongg because in 1997, the law dropped out the authority under social card games for Mah Jongg. He thought it may have been an oversight, but no one knows. He suspects that the Legislature never had an oversight, so it is no longer one that is there for them to approve, so they have removed it. Also, in the later rules they removed another tile game --dominos -- that has also been removed from the rule that will be before the commissioners tomorrow. Under house-banked games, they have Blackjack, Let It Ride, and Caribbean Stud. Under the initial pilot program, they had allowed Baccarat and Red Dog as approved games; however, after further study the staff determined that actually these were not card games and he agreed because players didn't have card that they had any control over. It was the player versus the house

and everybody could bet for one side or the other. He informed the licensees if they wished to have those games approved, he thought it would be appropriate for them to bring them forward to be discussed. Another change to the type of games is that they removed Pai Gow Poker from the category of “between players” and put it down in the proper category, which it is as a banked game. It is a game that would be allowed now only now with the Class F license. There is no change in player-supported contests from what they had in the pilot program.

Wager limits. For Poker, it changed from a \$10 maximum bet in the pre-pilot program with a maximum of two raises in any betting round, and a maximum of five betting rounds allowed in any particular game. It was limited on the cumulative total for the initial bets in all betting rounds of \$30 and this was done for actually four and five betting round games to allow the licensees to have some flexibility for setting wagers without going five-five-five-five-ten. Traditional Hold-Em games, they’ll play the game two-two-four-four; in other words, the first two betting rounds, they’re allowed only two and the last two they can go up. The agreement reached between the staff and the licensees is they could bet \$30 under the current rules in a five betting round game by going four-fives and the last round having ten, added to \$30 and so the rules was changed to allow them to have flexibility. Typically, then, under that rule they could have a game that went two-four-six-eight-ten add up to \$30. There was all kinds of flexibility on how to set wager limits within each house as long as it did not exceed four five-betting round games and \$25 for four betting rounds. In essence, Hold-Em is a four-betting round game and it allowed them to play four-four-eight-eight games. Under those rules, the maximum a player could bet in any betting round would be \$30. There could be the initial bet of \$10 and two raises for a total of \$30, then anyone could wager the maximum. The maximum a player could bet per hand under that criteria was \$90 and that was arrived at by giving to 15 – three five’s, three five’s, three five’s, three five’s and then three tens. Under the Washington Blackjack on the pre-pilot program was \$25, although they are allowed to double down. In other words, if they had a 10 or 11 to make another wager and get one card, to match their initial bet and also to split pairs which would allow them to bet more as specific player station than normally \$25. And with the player-supported prize jackpots, they didn’t have any. And house-banked games, they didn’t have any of those either.

Pilot program – during the pilot program, Poker was \$25 for maximum wager and the number of raises changed from two to three. Three raises is the traditional Poker game it used to be, and they were allowed no more than three but they had allowed no more than two. The betting rounds were still limited to five – he didn’t know of any games where they could come up with more than five, but he was sure that with as many things that are going on out there now, someone could probably have more decks of cards play though. The cumulative total that they had talked about before in the previous slides was basically eliminated and the reason it was eliminated because with a \$25 base wager there was no reason to even mention that as far as being a limit. Now one can make \$25 on any bet or any raise on any round. That was the conditions that they played under the pilot program and it allowed the licensees complete flexibility. Those that were within the program and were abiding by the new controls that were put upon them. What this resulted in, though, when they look at, the maximum a player could bet now in any one betting round became \$100 as compared to the previous \$30 and they could get there by going four times \$25, an initial bet and three raises. The maximum theoretical amount anyone could bet in a hand now becomes \$500, which is by having \$100 for one round times five rounds.

Commissioner Herbold asked what the thinking was in going from the pre-pilot program, which allowed for a maximum wager after all rounds of \$90, all the way up to \$500. She said it seemed like a very dramatic jump. **Director Bishop** said he didn’t disagree with her, but he thinks it goes back to some sort of logical approach, because he has tried to think about this, too. He was present at the meeting between the staff and a group of licensees who were asking at that point in time to have permanent rules put in and it was the number derived at. At that point in time, they did have a \$25 bet – the \$25 bet that was allowed then was by rule on Washington Blackjack. The threshold had been passed as far as having a limit on it. They asked for \$25 and director agreed with it.

Chairperson McLaughlin asked if this meant that, if there are seven people playing, it’s possible a pot could be \$3,500. **Director Bishop** said that was correct. He said it was not probable, but it is possible. He said he would be astounded – or maybe he would like to play in that game – that anyone would stay in and call the maximum bet for every round right up to the limit, but in theory, yes, it could be \$3,500. **Commissioner Herbold** asked if Poker allowed up to 10 players. **Director Bishop** said in theory it could be \$5,000, but he would almost say that the odds of that in a Hold-Em game would be very slim. **Chairperson McLaughlin** asked the audience to raise their hands if they had ever seen a game like that. No one raised his or her hand.

Chairperson McLaughlin said it must not be that prevalent then. **Director Bishop** said in the pilot program, Washington Blackjack in essence remained the same – there was no change to it. Player-supported prize contests allowed a maximum \$1 to enter those house-banked games. For Level I, Phase I, \$3; Level I, Phase II, \$5; Level II, Phase I, \$25; and Level II, Phase II, \$100. And, finally, jackpot schemes that were played in conjunction with some of the novelty games -- Let It Ride, Caribbean Stud -- where a jackpot was played for on the side – they were at \$1. Under the permanent rules, because this is a policy issue that doesn't have to do with regulatory concerns, the staff brought forward those limits that were tested under the pilot program. And so what they would see are basically the same rules coming forward for the permanent rules as far as the recommendation for regulatory purposes.

Commissioner Forrest asked if the staff is not urging the commissioners to do anything specific regarding the betting limit that – it's just there because it was in the pilot program and now it's before them. **Director Bishop** said the staff tested with \$25 wagers and they did not find that the increased wagers caused them any regulatory concern. They didn't see cheating increase. **Commissioner Forrest** said the reason for the lower limit would be to just limit the amount of gambling money that's flowing through the society.

Chairperson McLaughlin asked if he were still talking about Poker. **Director Bishop** said yes, and that all of the other things were the same as under the pilot program, still a maximum wager of \$100, but someone could in theory bet \$500 in a game. Washington Blackjack – he said he must have already passed that – it's still \$25 and still allows splitting and doubling-down. Player-supported contests -- although it was informal policy in the pilot program, they have by WAC rules suggested that they put a maximum on those types of \$1. House-banked games Phase I -- \$25; Phase II -- \$100, jackpot schemes -- \$1, and they had informally been set at \$1 previously and most of the games that are out there call for \$1. What they don't see are any Level, Phase I, bets. And the reason for that is no one elected to participate in that in the pilot program. No one wanted to come in at a lower level and accept the rules and so the staff sees no reason to have that as a regulation or a program.

Chairperson McLaughlin asked, of those who have gone to Phase II, how many \$100 bets there are. **Director Bishop** said he could not tell her exactly. He said he remembered that Mr. Steiner had testified earlier that when he went to Phase II he didn't see a three-fold increase in his revenue; he saw about a 25 percent increase so that means that there were some going to \$100, but certainly not everyone. **Chairperson McLaughlin** asked for a show of hands of those who were seeing a lot of \$100 bets.

Steve Downen said maybe one \$100 bettor. **George Teeny** said that it depends on the time of day. On a weekday in the afternoon, hardly anyone, on a weekend night, a few more, but overall no more than around 3 percent of the players will typically bet \$100 at night.

Director Bishop continued:

Rules of play. WAC 230.40.015. Pre-pilot program. Games between players – all those things discussed earlier basically were as described in Hoyle's Encyclopedia of Card Games, 1974. It is still in print and it is available on the Internet for purchase. This guide is still the basis for playing Poker in most jurisdictions that they have found. Washington Blackjack, on the other hand, had a specific rule for that type of activity and the ground rules for it – since it was not in Hoyle's book – is WAC 230-40-125 – that rule would also be the permanent and it had been changed. There were no house-banked card games or player-supported progressive prize contests, so there were no rules to go by. During the pilot program the games between players – Poker still remained Hoyle's, Washington Blackjack remained the same as it was in current WAC rule. House-banked games on the other hand had some games that were not described in Hoyle's, especially some of the exotic games. So the rules for those were a mixture of Hoyle if it was in there and if not, the rules from the patent holder from the games as approved by the staff were used during the pilot program. And the ground rules for having the player-supported contests were also approved by the staff. He asked Ms. Cass-Healy if some of those were in the Appendix B. **Ms. Cass-Healy** said they thought so. **Director Bishop** said it would have been a mixture of contract and the staff in that case.

Permanent rules – For games between players, they still rely on Hoyle's. They haven't been able to find anything else and they didn't want to codify another probably 50 rules that would be necessary to put all of those

in WAC form. For Washington Blackjack, the rules of play will be as defined again in WAC 330-40-125, although they are proposing some changes to those rules so that they would better reflect the current environment. In fact, they will be going back even taking the rules that are in front of the commissioners tomorrow and working on those because he recognized that there might be a problem that they need to look. Also, he has been questioned as to why they want Washington Blackjack now that there are house-banked games. Licensees have the ability, if they desire, to play Blackjack by coming in under that type of license so there is also an issue that he thinks needs to be thought about a little. He said his reason for suggesting this is a very complicated game to play. It also is partially what got them to this point by saying that it lends itself to having players themselves be professional gamblers from the sense that what they had pre-'97 changes when its some card rooms people – they came in purely with the job – they were tonight to bank the game. The house or the licensee wasn't doing the banking. The licensee was providing or making their revenue off time but they had people that actually were professional gamblers. He said he thought they needed to look at that very closely now that they have a forum for completing those games.

Commissioner Forrest asked if the reason for keeping Washington Blackjack is simply because the people still want to play it. **Director Bishop** said the staff had asked to repeal Washington Blackjack; however, he said this needed to be considered carefully because it was being taken off the low level in the house-banking. Now, it would allow some of those smaller card rooms to have that type of activity without spending the two to three hundred thousand dollars that it would take to put them in the full house-banked ability. That's why he recommended that it be placed on the agenda and looked at. He thought they should go back to the pre-'92 changes to see if they were going to be talking about having a house dealer deal the cards so that no one really knows whom the banker is. They needed to decide if they were going to allow people who don't want to bank (in other words don't want to be a player) to pass their deal on around. That's how the professional gamblers got in. A professional gambler would come in with \$2,000 and bank the game. A typical player sitting at the table doesn't have \$2,000 in their pocket nor do they really want to risk it. The professional gambler would ask if anybody wanted to deal and no one would, and then he would continue dealing.

Commissioner Forrest asked if it was a fairly popular game before there was house-banked Blackjack. **Director Bishop** said he thought it was a popular game. Before it was approved, it grew the customer base for card rooms in Washington and he thought that the licensees would agree to that. There were people who would play Blackjack and would never sit down and play Poker, so they actually, for a period of time ended up with more card rooms – people opened up just to play that type of game rather than having a Poker game.

Commissioner Heavey said that if Washington Blackjack were eliminated, though, everybody who played in order to have the equivalent of it, they'd have to get a license for a house-banked card game. And if they didn't want to do that, then they wouldn't be able to play this kind of game. **Director Bishop** said that was the original reason that he wanted to leave it on the agenda to be discussed, but look at going back to some of the rules they had before -- that it go back to that type of game.

Commissioner Herbold asked the audience how many of them would be affected if Washington Blackjack was repealed.

George Teeny, New Phoenix Last Frontier in LaCenter, Washington, said that during the whole presentation there are always points of interest or clarification that he and maybe others want to bring forward. He said they had Washington Blackjack in their club before they went to the Class F license or the house banking and when they initially had it, they had five tables of people who wanted to play Washington Blackjack. It was nice because they are located in southwest Washington and were not affected by the tribal casinos like his peers are up in the central and northern areas of Washington, so they were somewhat protected. However, after awhile, the attrition rates for Washington Blackjack players dwindled immensely. About 1 out of every 20 or 25 players who came into play what they considered to be Blackjack would stay with Washington Blackjack and the other 19 to 24 – these are generalizations – chose not to play with them anymore and go somewhere else to play the real game. He said they had a contingency of people who still wanted to play Washington Blackjack, when they changed over to house-banked games, they offered two tables of Washington Blackjack in the same room with the house banked games and they didn't force it, but for six months they tried to push some of their players toward Washington Blackjack. They didn't spread one game in six months so they took the hint and eliminated it.

Director Bishop continued his presentation.

Rules of play for house banked games would be the same as they were under the pilot program – a mixture of Hoyle rules and as approved by the staff when they came forward with games.

Chairperson McLaughlin asked if the smaller card rooms attend these meetings – the ones that might have one table of Washington Blackjack. **Director Bishop** thought they probably did not attend. **Chairperson McLaughlin** said they would be affected if the Commission did away with it. **Ms. Cass-Healy** said she spoke to two or three card rooms who did have Washington Blackjack still and they would not want to lose it.

Bob Tull, attorney for the Recreational Gaming Association, said he would make sure that the smaller card rooms were informed of this so that the Commission would have the benefit of the full range of thinking on this. **Director Bishop** said that, under the permanent rules, player-supported progressive prize contests, they are now recommending a specific rule that covers the procedures for that type of activity – that would be WAC 230-40-600, which will be up tomorrow.

Collection of fees WAC 230-40-050 -- Pre-pilot program. Statute and rule set it at \$3 per half-hour and \$6 per hour. During the pilot program, there were no limits on those but they were informal and they did find out through an informal survey that no one actually charged more than \$3 per half-hour or 25-cents per hand. That's not to say that they might not have, but just those that they contacted had not. The pot rate was set by Appendix B – 10 percent not to exceed \$5 per hand. The Commission set Pai Gow at 5 percent of winning hands – that again was an informal policy. The prize contests administrative fees were set at a maximum 10 percent of the player's funds. There was no set limit put on novelty games. They were treated not as player funds but rather operator-guaranteed funds. Under the permanent rules the staff recommends \$10 an hour maximum on the time basis, \$1 a hand on the per hand basis; the pot rake remains the same as under the pilot program. The Pai Gow Poker rake is the same as the pilot program at 5 percent of winning hands. In fact, the administrative fees are also the same as they had for the pilot program. He said he does not know why they set the amounts at \$10 or \$1. He suspects that they did it so that they wouldn't have them before the Commission every other month asking that it be increased from 25-cents to 50-cents to \$1. Under the pilot program, they are charging what was actually allowed before the law was changed -- \$3 per half-hour and 25-cents a game -- so it is purely a policy issue, a regulatory reason that they could very well have put \$100 and \$10 from that perspective.

Hours of operation -- Pre-pilot program. Games were not allowed to operate between 2 a.m. and 6 a.m., with the exception that if a licensee petitions the director, they could have their closing hours adjusted as long as the Liquor Board and local law enforcement concurred. What they found is that most of the licensees wanted some sort of different hours for various reasons. One of the things with the pre-pilot card rooms program during that period, the operators by rule were allowed to limit entry of new customers into their business after a certain time. It was considered to be a security concern. What they found was that no one did such a thing and while local law enforcement had the right to come up and knock on the door and say let us in, that by having to go through that type of scenario, the agency could not put people in undercover, which was not too good. Under the pilot program, a part of the contract is the operating hours so the Commission, in effect, has set the operating hours by the contract. He said he didn't know how they handle the local law enforcement and Liquor Board. He said the staff does consult with local law enforcement when they put the times in. He said that if someone still wanted to operate at different hours, it still is the same as previously – they must petition the director and after consulting with the Liquor Board and local law enforcement, in most cases would approve their hours. Under the permanent rules they have had to modify somewhat because experiences they have had in certain situations. However, as a general rule, games still would not be allowed between the hours of 2 a.m. and 6 a.m. with a few exceptions. If an exception is made, the staff now must consult with the liquor control board or local law enforcement before making their decision whereas before these organizations had full veto power.

Commissioner Forrest said that as a practical matter, under the pilot program, he wondered if there was a wide variety of hours or lots of requests for the exception, or if 2 a.m. to 6 a.m. are kind of the common prevailing hours. **Director Bishop** said that very few, if any, use 2 a.m. to 6 a.m. as their closing hours. **Chairperson McLaughlin** asked what hours were used. **Mr. Fries** said that some close at 6 a.m. and a lot of them close at 7 or 8 a.m. **Commissioner Forrest** asked if they ever denied requests for different hours because of the Liquor

Board or local law enforcement's objection. **Mr. Fries** said yes, there was one case where the local law enforcement rescinded its approval. **Commissioner Forrest** pointed out that that was an exception, but it does happen. **Director Bishop** said they would do it when they first started. He said Mr. Miller had delegated that authority to him and he found that the Liquor Board at first was very slow to buy on. After they found that it wasn't really causing many problems, they later almost made it a rubber stamp approval.

Commissioner Forrest asked what the Liquor Board hours were. **Director Bishop** said 2 a.m. to 6 a.m. and that was by law. **Chairperson McLaughlin** said they could do the same as the Liquor Board then and make it flat across the board for everyone, 2 a.m. to 6 a.m. **Director Bishop** said he would defer that question to Mr. McCoy, the attorney, but he thinks that the Commission has the authority to do that. **Chairperson McLaughlin** said she thought that would be the most fair. **Director Bishop** said that anyone's operating hours would not give them a competitive edge in that case. He said that they were having a problem with placing the staff undercover when businesses were closed. They were recommending doing away with the operator's authority to shut the business down to new players, because it is not within the spirit of what commercial stimulant would be. The fact is that the business needs to be open for the general public anytime the gambling is going on.

Commissioner Heavey asked if the rules require a full menu if the operation is open for gambling after 2 a.m. **Director Bishop** said the rule for commercial stimulant currently requires that the business be open and requires them to have a liquor license. He said they couldn't be serving liquor between 2 and 6 a.m. A tavern cannot be open between 2 and 6 a.m., only a restaurant or cocktail lounge can. He said they currently have not forced the issue about full menu, but he thinks that would be something that should be discussed when they discuss commercial stimulant.

Commissioner Ludwig wondered how the licensees on their list that identify themselves as "X-Y-Z Tavern" or a tavern/casino can be open past 2 a.m. for gambling when as a tavern they are supposed to be closed. **Director Bishop** said the old "B licenses" have not been approved into the house-banked program. **Commissioner Ludwig** said he's thinking of an establishment that goes by the name "tavern," but they do sell hard liquor. **Director Bishop** said they fall into a different category, but at the current legislative session there is a law that would allow all taverns to sell hard spirits and if that became the case, which would be different. He said Class B and Class H licenses no longer exist. They are just called taverns or restaurants. If they are licensed as a tavern they can only sell beer and wine and they have no requirements for food service. Most of them may have hot dogs or some thing. **Director Bishop** said the staff recommends that a restriction be placed on the hours limitation for people who are operating businesses within the same general area. He said his reasoning is that – unless the Commission decides that it's not issue – to prevent the fact that someone could circumvent that 20-hour window by closing one and making sure the other one's open during the other hours. That only becomes an issue if they are operating very close to each other and may not be an issue then, but the current rules before the commissioners will have that as a restriction. **Director Bishop** said that since they did run across some issues on changing hours, changing the scope of a license, the rule now includes procedures for denying or revoking those different hours; in fact, allows the licensee has their process under the APA to present a case.

Director Bishop continued.

Progressive prize contests -- WAC 230-40-610. Under the pre-pilot program, there weren't any. Under the pilot program, there were operating control procedures set by the director and authority set forth in the pilot program rule. In the contract, it said that the Commission approves, under the permanent rules, the operating and control procedures set forth in WAC 230-40-610. WAC 230-40-050 is the limitation on the amount of fees. He said he should have included in this the issue relating to the cashing of checks that Chairperson McLaughlin brought up at the last meeting. He said that was purely a policy issue and not one that would cause regulatory control problems for the staff, although if they try to limit it to a specific type of check, such as payroll checks, it would be very hard for the staff and even licensees to police, whether it was a payroll check or a social security check. **Chairperson McLaughlin** asked about a third-party check. **Director Bishop** said that would be the alternative if controls are warranted in that area, a person would write a check on their personal account and no other checks would be authorized. **Chairperson McLaughlin** asked people in the audience to raise their hand if they accept third party checks. Two raised their hands. She said that in small card rooms they probably were more likely to accept them because they are more likely to know each other.

Commissioner Herbold said that, based on the licensees in the pipeline currently, they are anticipating that at the end of the program, there may be 80 establishments participating. The staffing needed is anticipated to be about 45 total new FTEs. Some may already be on board, but a total of 45. She understands that there are different kinds of people doing different jobs, but that is less than two card rooms per new employee and she is trying to figure out what among these policy issues really ties up the most time – is it the hours of operation that have to be monitored, the limitation of wagers – what in here is really the most labor-intensive on the part of the staff? **Ms. Winslow** said she would say probably types of games might impact their time because of the need to understand the different types of games and number of tables. Wagers don't impact the staff's time and whether it's \$25 wager versus \$100.

Chairperson McLaughlin asked what she meant by number of tables, like, if they had 15 tables and they were playing 7 tables, that's going to take less time than if they were playing 15 tables. **Ms. Winslow** said it really depends and she would have to couch that some, because if they have a 15-table card room and it is operated by somebody who has a lot of experience and knowledge in the area, it takes them less time to regulate that operation as opposed to a three-table card room where they don't know what they're doing. **Director Bishop** said there are two components of staff time, a location component and then a scope component. It certainly takes more to regulate 15 tables than it does five. **Commissioner Herbold** asked about the hours of operation. **Ms. Winslow** said it would be easier if everybody closed at 2 a.m., but having various hours is something that they have been able to work with.

Commissioner Forrest asked about the policy decision they are dealing with – limits and so forth. The issues are really about public policy and are important, but they aren't really affecting the operation of the budget in any substantive way. **Ms. Winslow** said yes, they affect the budget very little.

Chairperson McLaughlin said the Commission just received a copy of the adjusted card room closing hours. It just says 8 a.m. She asked if that meant it didn't open until noon. **Ms. Winslow** said that's the closing, yes. **Chairperson McLaughlin** said that's 8 a.m. until noon.

Commissioner Heavey referred to multi ownership in the same area with the same hours, which is one of Director Bishop's issues. He asked what the public policy issue was involved in that. **Director Bishop** said that depends on whether they want to have someone's ability to circumvent it by building places next to each other that run different hours. **Commissioner Heavey** asked what they were circumventing. **Director Bishop** the mandatory 4-hour closure period. **Commissioner Heavey** posed the question of if there were three different owners within the same area, which is likely to be more common than the one owner having three locations in the same area. Now if that is defined sufficiently, he doesn't understand what it is other than just kind of a, "shame on you" type of thing that has no public policy affect.

Commissioner Heavey said, in his opinion, he doesn't see a public policy issue with this. He said he needs is to have it defined for him. **Commissioner Forrest** asked if there is a public policy issue on having 20 hours versus 24 hours. **Commissioner Heavey** said not for him, unless it was to clean up the place. **Commissioner Forrest** said that was a domestic policy issue. **Commissioner Heavey** said no it was not. People who are going to gamble 24 hours a day will just go to another place.

Commissioner Ludwig said that, regarding ownership and proximity, it was interesting for him to note that they have four licensees in LaCenter with two owners. All of them are closing at 8 a.m., with one exception and that's 7 a.m., so they're not trying to circumvent a 20-hour operation, at least if this is accurate, and he thought that was noteworthy. He thinks there is a public policy issue though. He doesn't think the public's going to accept 24-hour a day gambling. They have already done so much to expand gambling in the state of Washington now if they open at the same hours that Reno and Vegas does the public may react. **Commissioner Heavey** said his proposal would probably go down to defeat. **Director Bishop** said it's probably a perception issue rather than a public policy issue.

Chairperson McLaughlin thanked the director for his presentation. She called for a ten-minute break, 2:50 – 3 p.m.

RECESS

Chairperson McLaughlin called the meeting back to order at 3 p.m.

QUALIFICATION REVIEWS

LOYAL ORDER OF MOOSE (LOOM) #1774, Vancouver

Mr. Fries said the organization was formed in 1957 to unite their membership in the bond of fraternity, benevolence and charity and to assist their families in times of need and support charitable programs to the community. Licensed in 1974, the organization has 950 active members and is governed by a nine-member board. The Loom has a full-time lodge administrator, 224 volunteers who provided 4595 of program services. The organization operates a family-oriented recreational and social facility in which members participate in a variety of club activities. Programs provided by the LOOM include a Moose Awareness Program, youth sports programs, boys and girls scouting sponsorship programs and Department of Veterans Affairs voluntary services. In 1998, the organization held a Special Olympics fundraiser, delivered household items to local battered women's shelters, and held community, Easter, and Thanksgiving parties. During the Christmas season, the LOOM provided gift baskets to needy families and provided services to a local senior citizens rehabilitation center to include gift shopping, wrapping and delivery of gifts.

For the fiscal year ending April 30, 1998, the organization met its required combined net return percentage of 12 percent for its Class "J" bingo license by achieving 12.9 percent net return. The organization's year-to-date net return as of December 31, 1998, was 12.4 percent. The organization met its program and supporting services expenditure requirements and did not have excessive reserves. As of this date there are no pending administrative charges against the organization. The staff recommends that the Loyal Order of Moose #1774 be approved as a fraternal organization and authorized to conduct gambling activities in the state of Washington. He said there was no one present from the organization.

Commissioner Forrest moved to adopt the staff's recommendation and approve the LOOM #1774 as a fraternal organization and authorized to conduct gambling activities in the state of Washington.

Commissioner Herbold asked what the difference is between a Group IV level and a Group V level license.

Mr. Fries said it has to do with a higher level of gross receipts. **Director Bishop** said Group V eventually must come before the Commission with a formal presentation and Group IV does not. The Group V's come before the Commission every three years and make their own presentation. **Commissioner Herbold** said she had noticed there was a huge difference in the non-gambling revenue between 1997 and 1998 and she wondered what the non-gambling revenue is that accounted for the \$81,000. **Mr. Fries** said he doesn't know, but he will find out. **Chairperson McLaughlin** said more people joining might have caused it. **Mr. Fries** said dues and fundraisers might also do it. **Director Bishop** said this group had some remodeling, but the staff would follow up to see what happened during that period.

Commissioner Herbold referred to the bottom section of the financial summary under Class "J" pull-tabs, the net gambling income shown there is \$43,995. Up at the top under "other gambling net income" it's a smaller amount by a couple hundred dollars. She wondered how that happened – to have a smaller total above than down below. **Director Bishop** said the way that could happen is if they held a raffle and lost money or amusement games and lost money because that's a combination "other gambling," which is a combination of all of those other activities. He said that was only conjecture on his part, but it could happen that way. **Ms. Winslow** said that, in the report, it states that there was 49 percent increase in the membership in just one year, and it seemed to be due to the facility being remodeled.

Vote taken; motion carried with five aye votes.

RESIDENCE EAST, Renton

Mr. Fries said the organization was formed in 1973 to assist developmentally disabled adults with learning skills so that they may live their lives independently in their homes, at work, and within their communities. They have been licensed since 1994 and they have 24 active members and 12-member governing board, including four officers. The organization has a full-time executive director, 30 employees, and 13 volunteers provide program services. They provide training and residential services to developmentally disabled adults through both in-home support and the operation of adult group homes. Currently, the organization operates four program sites and supports 28 individuals with full-time, in-home care. During the fiscal year ended June 30, 1998, the organization purchased its fourth home, which houses six intensive care support clients. The home was purchased in part and renovated by proceeds from bingo operations.

For fiscal year ending June 30, 1998, the organization initially reported their combined net return was 9.8 percent, which was under their required net return percentage of 10 percent for their Class "I" bingo license. However, it was later learned by the Commission staff that Residence East had made an error in their original report and their combined net return was actually 10.7 percent showing they were in compliance. Their year-to-date net return as of December 31, 1998, was 12 percent. They met their program and services expenditure requirements and did not have excessive reserves. There are no current pending administrative charges against the organization as of this date. The staff recommends Residence East be approved as an educational organization and authorized to conduct gambling activities in the state of Washington.

Commissioner Forrest moved to adopt the staff's recommendation that Residence East, be approved as an educational organization authorized to conduct gambling activities in the State of Washington. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

SEATTLE JAYCEES, Seattle

Mr. Fries said the organization was formed in 1937 to provide its members with leadership and development opportunities and management training through networking and community involvement. Licensed since 1975, the organization has 125 active members and a 12-member governing board, including 8 executive board members. The organization has a volunteer president and two full-time employees who provide program services. The organization operates two other nonprofit subsidiary corporations – the Seattle Junior Chamber of Commerce Headquarters Association and the Seattle Jaycees Charities. Members from ages 21 to 39 receive leadership and management training while providing community services. Seattle Jaycees conducted more than 45 projects that have benefited an estimated 10,000 individuals in local communities during 1998. Some of these projects included the Helping Hands Project to assist with meal serving at the Union Gospel Mission in Seattle, participation in the Adopt-A-Family-Project by adopting a large family and delivering food, clothing, gifts, and decorations for a family's holiday. For the past nine years, the organization has awarded scholarships to students attending colleges and universities. In 1998, 15 \$1,000 scholarships were awarded. The organization also participated in and coordinated projects with the Northwest Burn Foundation, Food Lifeline, Chicken Soup Brigade, Make A Wish Foundation, the Brain Injury Association of Washington, the Dream On Foundation, the Diabetics Foundation, and the Junior Chamber Mission. In addition, the organization awarded more than \$40,000 in charitable grants to community and national nonprofit organizations.

For the fiscal year ending April 30, 1998, the Seattle Jaycees' combined net percentage was 10.7 percent which was below the required 12 percent net return percentage for their Class "J" bingo license. Consequently, on January 5, 1999 the organization was notified that they would be limited to Class I bingo license. The organization's year-to-date net return as of December 31, 1998, was 5.9 percent. The organization met its program and services expenditure requirement and did not have excessive reserves. At present, there are no administrative charges to the organization and the staff recommends that the Seattle Jaycees be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington.

Commissioner Ludwig said it was interesting and seemed strange to him that the bingo net income went down almost 50 percent and pull-tabs went way up. He wondered if there was some logical explanation or if it could be their location. **Mr. Fries** said he thought it could be their location and pull-tabs during that period of time were

selling better -- \$1 per pull-tab.

Commissioner Herbold moved to adopt the staff's recommendation that Seattle Jaycees be approved as a charitable organization authorized to conduct gambling activities in the state of Washington. **Commissioner Heavey** seconded the motion. *Vote taken; motion carried with five aye votes.*

CARD ROOM CONTRACTS UNDER APPENDIX C – HOUSE-BANKED PILOT TEST

PLAYER'S CASINO, Federal Way

Ms. Cass-Healy said this is a commercial restaurant, lounge and card room located in Federal Way, Washington. Imbibery, Inc. owns Player's Casino. Jim Rontos is the president and holds 100 percent ownership interest. Rontos also is the sole shareholder of J & B Enterprises, which owns Spot Sports Bar & Grill in Renton and Rooty's Sports Bar & Grill in Burien. However, none of these facilities currently operate under the enhancement program. Player's was approved for a waiver of the six-month operating experience on January 13, 1999. It is determined the management had adequate knowledge of Washington State gaming laws and rules and have sufficient card room operations experience. Player's is requesting approval to conduct house-banked card games including 15 tables – those include six house-banked blackjack, two progressive blackjack, one Let It Ride, one Caribbean Stud, two Pai Gow Poker tables, one Casino War and two Poker tables.

Ms. Cass-Healy said special agents reviewed the internal control submissions and conducted the pre-operation inspection. During this review, the nature, size and scope of the gaming operation and controls were compared to the information submitted by the licensee. Based on the review, it was determined that the licensee's operations are in compliance with all of the requirements of appendices B and C and the internal controls are functional as stated in the internal controls submission. The staff is recommending approval to participate in the Commission's house-banked card room tests as a Level II, Phase I, operation.

Chairperson McLaughlin asked if there was anyone present from Player's Casino.

Juanita Martindale, chief operating officer of Player's Casino was introduced. **Commissioner Heavey** asked how the hiring is going and what her experience was. **Ms. Martindale** said they were fully staffed. She said she had 10 years aboard a cruise ship. Her first capacity was chief purser in charge of the financial operation and then she made a move into the casino operation. From there she went into Miami-based operations on day ships that operated out of Miami Beach for two interval cruises daily. High-limit games including Roulette and dice, Blackjack, Pai Gow Poker, Poker, classic Poker, Hold-Em and Omaha. She said her other two counterparts also have equal amount of experience. Michele Eckhart, who is the other chief executive operating officer, has 12 years -- on cruise ships like her. Angie Alderson has 16 years experience and they formed a tri-lateral management team.

Commissioner Herbold asked about the commercial stimulant aspect of their business. She wondered to what extent this business is a restaurant or a business serving food and drink beverages as opposed to the card room. **Ms. Martindale** said most of their business is bar and grill. The back section of their restaurant is the card room itself. She said their emphasis is the restaurant with a sports theme, hence the name Player's. They have capacity in the dining room for 150 people, so most of the business itself is focused on the actual restaurant and the casino is an enhancement to that, but most of the business is based on the sports theme pub-style of restaurant.

Chairperson McLaughlin asked what their hours are. **Ms. Martindale** said they are open from 3 p.m. to 11 a.m. and then closed for the four hours. She said Chief Wood of the Federal Way Police Department was with her several days ago and has approved their hours of operation. **Commissioner Ludwig** asked what "Casino War" is. **Ms. Martindale** said it is a play on the game that he may have played as a child – whoever has the highest card wins. She said it's a very simple game. There is an extra wager that will allow the player to bet on

whether or not they will have a tie with the dealer and then if the player ties, then the wager is paid 10 to 1. It's played with a six-deck shoe and goes very fast and is high spirited. **Commissioner Heavey** asked how many people play in that game. **Ms. Martindale** said it is a seven-spot game just like regular Blackjack and it's actually played on a regular Blackjack table. The only difference would be the layout. **Commissioner Heavey** asked if the player bets on each turnover of the two cards. **Ms. Martindale** said the player was dealt one card and the dealer is dealt one card. **Commissioner Heavey** asked if they bid on the turn of the next card. **Ms. Martindale** said the player bets prior to the cards being dealt and then the tie wager is also bet at that time. Player bets first, and then the tie wager is put out at that same time. This is only one card and then if the player ties, then he or she "goes to war" with the dealer. He or she burns another three cards, the next card is the player's, then he or she burns another three cards and the next card is the dealer's and if there is another tie, the player automatically wins that one. They figure twice and that's enough – the player has won. She said it is quite a good game.

Director Bishop said he's been informed that on cruise ships, it is common to have nine-position Blackjack and he wondered if that was her experience. **Ms. Martindale** said she had seen them. Most of her experience in Miami was aboard Carnival Cruise Lines – that is a very high volume operation – they boast at having the biggest casinos afloat. They do all of their training and their corporate office is now expanded to include several of the cruise lines that they've taken over the casino operation on those cruise lines –Holland America, Costa, Seaborne, to name a few. Her other experience in Miami was on these day ships that go out twice a day for four or five hours and they conduct very high limit games. It's a very limited area or space on a very small ship, about the size of a good yacht. It was there they had the nine-spot games basically because of the volume – there weren't enough tables to go around and they needed the other spots to accommodate the players.

Commissioner Ludwig asked if Casino War is one of the approved games on the list. **Director Bishop** said the manufacturer has been licensed and the game has been approved.

Chairperson McLaughlin asked if anyone else had questions.

Commissioner Heavey moved to approve that Player's Casino be admitted into the card room enhancement program as outlined in the proposal. **Commissioner Ludwig** seconded the motion.

Vote taken; motion carried with five aye votes.

RUBY'S CASINO, Kent

Ms. Cass-Healy said Aztec Development, Inc. d/b/a Ruby's Casino is a commercial restaurant, lounge and card room and owned by Darrell Duffy, who owns 32.5 percent. Wayne Wagner also owns 32.5 percent and Asghari Chaudry owns 35 percent. Although they have been licensed to operate a card room since December of 1998, they started operations in January 1999. The licensee was granted a waiver for the six-month operating requirement based on the experience of the management's staff. This is the only card room the owners operate in the house banked program. They are requesting approval to operate a total of 15 tables including five poker tables with rakes and one player-supported jackpot. The other 10 are house banked with \$25 maximum betting limits. Eight of these are blackjack and two are Pai Gow poker. The agents conducted the pre-operational inspection and completed the pre-operations inspection checklist. Based on this review, it was determined the licensee's operation are in compliance with all of the requirements of appendices B and C and their internal controls are functional as stated in their submission. Therefore, approval to participate in the Commission's house-banked card room test as a Level II, Phase I, operation is recommended.

Chairperson McLaughlin asked if Kent is one of the cities uncomfortable with mini casinos. **Ms. Patjens** said they just passed a moratorium and she was unsure if they require an additional business license or not, but she said she thinks they allowed vesting of people who were already operating. The staff did not receive a notice from the City as have other cities that let them know about moratoriums. **Chairperson McLaughlin** asked if the staff should make the organization aware that they may not be able to open. **Commissioner Heavey** said that is up to the City to inform the operators, not the Commission. The police will tell them if no one else does.

Robert Forchet said he was the casino manager at Ruby's. He said the City of Kent did put a six-month moratorium on card rooms, which does not affect their operation at this point. They also had alternative hours of operation rescinded. The Liquor Control Board granted them the hours they were looking for, which were 9 a.m. to 5 a.m. The police approved those hours, but the mayor had a problem with it so he contacted the Liquor Control Board and they did rescind their hours. They presently operate from 6 a.m. until 2 a.m. and are closed from 2-6 a.m. This is for the card room as it stands now. They haven't played their house-banked games yet.

Commissioner Ludwig moved to approve. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with five aye votes.*

JACK NIEMANN'S STEAKHOUSE, Bellingham

Ms. Cass-Healy said this Black Forest International, Inc., d/b/a as Jack Niemann's Steakhouse is a commercial restaurant and card room in Bellingham. Christina Niemann owns 90 percent of the stock in Black Forest International and Jack Niemann holds the other 10 percent. This steakhouse was granted a waiver of the six-month operating requirement to participate in the house-banking test program on February 25, 1999. This is the only card room the owners operate. The steakhouse is requesting approval to conduct house-banked card games with five tables including one Blackjack, one Progressive Blackjack, one Caribbean Stud, one Let It Ride and one Pai Gow Poker table. Once again, the special agents conducted the pre-operations inspection and the pre-operation inspection checklist. Based on the review, it was determined that the licensee's operations are in compliance with all the requirements of appendices B & C and the internal controls appear to be functional as stated in their submissions. Approval to participate in the Commission's house-banking card room test as a Level II, Phase I, operation is recommended.

Chairperson McLaughlin called for anyone from Jack Niemann's Steakhouse to answer any questions.

Jack Niemann introduced himself and said he's been in the restaurant business for 33 years and has had pull-tabs for less than a year. They have their card room license, but they have not yet begun operation. He hired a very competent manager by the name of Neil Weintraub, who is also very experienced in Washington gaming activities. **Chairperson McLaughlin** said he was getting his license based on the experience of his manager. **Mr. Neimann** said that was correct. **Commissioner Ludwig** asked where they were located in relation to I-5. **Mr. Niemann** said they are actually located north of the freeway. **Commissioner Herbold** asked if the food and beverage would be his primary business. **Mr. Niemann** said absolutely.

Commissioner Forrest moved to approve the application of Jack Niemann's Steakhouse to participate in the house-banked program as a Level II, Phase I, operation. **Commissioner Ludwig** seconded the motion. *Vote taken; motion carried with five aye votes.*

HOUSE-BANKED PILOT TEST – PHASE II REVIEWS

SILVER DOLLAR, Tukwila

Ms. Cass-Healy said this organization is a restaurant bar and card room. Little Nevada, Inc. has owned Silver Dollar since July of 1996. Tim Iszley is the president and owns 85 percent of the business. Janet Buzzard owns 10 percent and Steve Schneider owns the remaining 5 percent of the business. The Silver Dollar opened its card room in 1997 and began conducting house-banked games on August 13, 1998. During the Phase II investigation, the staff conducted a thorough review and on January 28, 1999, an exit conference was conducted with the licensee, who was cooperative and agreed to make all necessary changes and all violations were corrected. Based on this review the staff recommend approval of Level II, Phase II, status for the Silver Dollar Bar and Grill.

Commissioner Heavey asked about the loans and sales of partial ownership and whether staff investigated the individuals. **Ms. Cass-Healy** said they did and the director settled it through an administrative case and it was resolved. They were all qualified.

Mike McCarthy said he is the general manager of the Silver Dollar Casino.

Commissioner Heavey asked what was their percentage of gambling income and other income. **Mr. McCarthy** said the food and beverage is about 30-40 percent and they serve for about 60 customers in the restaurant. As far as an exact percentage, he did not have that. They started with 8 tables, then moved to 10 tables 3 months later, and just recently at the beginning of the year they went to 15.

Commissioner Herbold asked about the various violations noted and how they would compare in seriousness with others that she runs across when they are doing their reviews. **Ms. Cass-Healy** said it is fairly typical to have several violations as they are doing the review and the staff helps to fine-tune them as they go along. She said that, other than the one issue mentioned by Commissioner Heavey, it was typical.

Commissioner Herbold said the question that was asked with respect to the percentage of business from food and beverage and other sources of income. She is beginning to have a serious problem with this concept because they haven't resolved the issue of commercial stimulant and primarily. It is going to be difficult for her to vote in favor of these until those issues are resolved, because the licensees are being set up for potential disappointment. If they resolve that and it turns out to be not in their favor, they've put a lot of time and effort into their operation. Then, if the Commission follows what she perceives to be the law as it exists today, they have to be primarily in the food and beverage business. So these are getting to be tough decisions until they get that resolved. **Chairperson McLaughlin** asked if in her opinion "primarily" means 51 percent. **Commissioner Herbold** said absolutely, unless someone tells her otherwise or shows her the law that says otherwise.

Commissioner Heavey moved that the licensee be approved for implementation of Level II, Phase II.

Commissioner Forrest seconded the motion. *Vote taken; motion carried with four aye votes; Commissioner Herbold voted no.*

OTHER BUSINESS / GENERAL DISCUSSION / COMMENTS FROM PUBLIC

NONPROFIT ORGANIZATIONS

Commissioner Heavey moved that the staff prepare a rule for discussion and possible filing for the next Commission meeting to approve video pull-tabs or whatever the pull-tabs are called where they spit out a piece of paper for charitable organizations only. **Commissioner Herbold** seconded the motion.

Chairperson McLaughlin asked how this was different from what the Legislature just turned down.

Commissioner Heavey said they turned down satellite bingo. **Chairperson McLaughlin** asked if this was going to be different than what they have agreed to for the tribal casinos. **Commissioner Heavey** said it will not include lottery and it will not include bingo. It will just include pull-tabs. **Chairperson McLaughlin** asked if commercials have pull-tabs and nonprofits have pull-tabs, how they could do this for just one. **Commissioner Heavey** said they would find that out next month if this were approved. He said he didn't know if it could be done or not. He said he was asking the staff to prepare a rule, put it on the agenda and put in their folder so they can decide next month whether they would file it and proceed to adopt it. Regarding the issues of whether they can do it just for charities and whether they have to do it for commercials, he said he was sure those things will affect the decision of the Commission. At this point he is not proposing that they make it available to anybody other than charitable organizations and it may be that they have to do it for everybody else and the vote will be no. **Commissioner Forrest** said he would also second the motion.

Commissioner Ludwig said he would support that motion and he may have a change of heart when it comes to voting on adoption or even filing, but the purpose sounds like it's something they ought to be talking about.

Chairperson McLaughlin asked if there was an Attorney General's opinion on it.

Commissioner Heavey said not unless they ask for it. He said he had already asked two attorneys and they've stood in front of him and answered his question specifically – one was Mr. McCoy and one was Mr. Pharris and he asked if there were anything in this video pull-tab that prevents the Commission from approving it for charitable groups and the answer from both of them was no. **Chairperson McLaughlin** said that was the video scratch ticket. **Commissioner Heavey** said he specifically asked about the video pull-tabs. He said the minutes of the meetings will reflect that he asked that specific question and the minutes will reflect that he got a specific and precise no. He said he pinned them to the wall on it.

Chairperson McLaughlin asked that a copy of that response from the attorney be included in next month's packet.

Director Bishop said he hears the direction as a rule that would authorize this with the understanding that there will be a lot of rules required for the regulatory functions to do this, so they were just talking about the issue of authorizing one rule. **Director Bishop** said there would be quite a bit of work to put together a whole program to regulate video pull-tabs and he did not think that could be done in a month's time. **Commissioner Heavey** said this would just be authorizing it and then if it required further rules to adopt to regulate the activity, and he would assume the staff would tell them that next month, and tell them what they have to do.

Commissioner Heavey restated his motion, "that the Commission instruct the staff to prepare a rule for discussion and possible filing that authorizes video pull-tabs -- or whatever they want to call those machines -- for charitable organizations only."

He reminded the Commission that he had asked the staff to do this informally and when nothing happened, he decided to ask for it formally.

Vote taken, motion carried with five aye votes.

I.G.R.A -- SECRETARY OF INTERIOR

Commissioner Herbold said that, some time ago it became known to the Commission that the Department of the Interior was hoping to promulgate rules that would allow the Secretary of Interior to resolve cases and basically revise portions of IGRA so that he could resolve controversies when the tribes and the states couldn't agree on compact negotiations. She wanted to know what the status was. It was her understanding that there was a moratorium until the end of this month, there's a comment period, and they had indicated what their position was on that. She wondered where it stands and whether any further indications need to be made to anybody.

Mr. McCoy said he could speak to that. He said she was correct that the moratorium that is currently in place, probably called the Enzi Amendment, expires March 31, 1999. There's been a good deal of negotiation between the parties about introducing a bill or an amendment to existing legislation to extend that moratorium. What the Enzi Amendment did was prevent the Secretary of Interior from spending any funds to promulgate any rules on the subject matter. The word he got earlier this week was that at this point, the negotiations are dead in the water and the expectation is that the amendment will expire if no action is taken. On the other hand, the scuttlebutt is that the Secretary is not anxious to start the war by pushing forward on regulations because there's still a great deal of sentiment to keep the status quo. The ball's going to be in his court at that point, though.

So at this point, there would still have to be a period of time for further comment on those regulations. The regulations had been proposed and the moratorium was passed during that period of time so they're not quite sure whether the comment period's going to be extended for the period of time the moratorium is imposed or how they're going to do that. It's kind of up in the air. But the answer is, yes, it does expire on the 31st of March.

Commissioner Herbold said theoretically those rules could be promulgated April 1, 1999. **Mr. McCoy** said realistically there's still some question about whether the date is really March 31 or April 22, so he doubts it would happen precipitously, but it could be as early as the end of April.

CITY OF SHORELINE

Robert L. Ransom, Cascade Bingo and city council member, thanked the Commission for endorsing charity bingo with a tax reduction and the bill has made it through the Senate and is now in the House. He said they were hopeful that bill SB 5745 will pass, and it will reduce the bingo tax from 10 percent to 5 percent. They couldn't get them to do away with the tax altogether, but at least it's being reduced and hopefully it will make it through the House and the Governor will sign it.

As the representative Cascade Bingo and also as an individual city council member for the City of Shoreline, he invited the Commission staff to speak for the City of Shoreline at their public hearing on their moratorium on Monday, March 22, 1999, at 7:30 p.m. The proposed moratorium would cut off of all gaming of any type, including pull-tabs for restaurants or any new establishment or any expansion of any activity by any existing one. That moratorium is on the basis of the King County Sheriff's Department's accusation that an emergency exists because of secondary effects of gaming. He said the gaming commission has done 10 studies to indicate that those secondary effects do not exist. In other words, things like a tavern with card rooms does not have any illegal activity any more than any other tavern in general at the same classification. He requested that somebody from the gaming commission come and speak at their public hearing if that's possible.

Commissioner Forrest asked if that meant he wanted the Commission to say that there are no bad effects of gambling. **Mr. Ransom** said he wants them to interpret their 10 studies as they see them, which, as he understands it is quite different from what the Sheriff's Department is posing. Whatever their studies are, Mr. Ransom would like them to be presented. **Director Bishop** asked if he was talking about "studies" that were really questions asked of local jurisdictions before operations went to Phase II. He said those were inquiries, not studies.

Mr. Ransom said that would be okay because it is an independent source of information. As was stated before, the Senate Committee on Gaming gave anecdotal data that did not provide any statistical studies whatsoever from the Sheriff's Department. They simply said, "We have incidents of prostitution we feel is related to a card room; we have incidents of robbery, which even a block away we feel is related because the person had been having lots of money and things at the card room before they left and was robbed a block away." They felt that there were incidents that they could establish of bookmaking at some card rooms. They did not show any pattern of illegal activity that was any higher than any other tavern and admitted that they did not have that data before the Senate Committee. He said he thinks this kind of information and the Commission's data should clearly be presented at their public hearing so that there is a balance in the information that's presented and the need – the emergency need – for a moratorium.

Commissioner Heavey asked if one of the incidents had to do with someone who lost some money in a card room, left and was robbed. **Mr. Ransom** said it really wasn't clear whether he lost or gained money, but he had been gambling at the card room and he still had plenty of money on him. He walked over a block away and was robbed at the car. The police officer said that it was related to social card rooms. He said that in the Senate hearing he had been asked if that had happened a block away from the bank, would that mean the same thing, and the police spokesman said perhaps it could have been, but in this case it was a block away from the card room and these are the kinds of incidents that they are relating as proof of why there is an emergency. He would like a more balanced picture.

Commissioner Ludwig asked if the information, inquiries, and the results obtained were public records.

Director Bishop said they have not received written documentation from any jurisdiction. He said what they do is they contact them and have their agents go talk to see if there are any law enforcement problems, and then they document what they find in their reports. **Commissioner Heavey** thought he was talking about something else – studies. **Director Bishop** said they haven't done studies.

Mr. Fleisher said that that idea probably came from his testimony in the Senate and when he referred to the Phase II reviews. He wasn't referring to statistical or independent studies they had done; he was referring to at that time there had been 10 house banked card rooms that had gone through Phase II reviews, and as part of

each of those reviews the operations staff contacted local law enforcement to determine whether they feel that there has been any significant adverse impact because of the house-banked gaming operations. That is what he was testifying to – he wouldn't really call those studies; they were inquiries on each of those 10 and now they have 11. He didn't know if they had specific data but that they could probably give summary material of what they could share. In summary, no, there had not been any significant adverse impact by those gaming activities that would be in any way greater than they found it at similar operations in the area.

Commissioner Forrest said he is a little skeptical about the Commission's representative going to the City and taking a position in an internal political fight. If the Commission has information that's not confidential, it is fine to share it, but the most effective thing would be to get either some of those officers themselves in person or by affidavit to say that their experience has been such-and-such. What the Commission staff knows is really hearsay – the Commission is just saying, "this is what somebody told us."

Chairperson McLaughlin said rather than in any way being confronting the City, which is not the Gambling Commission's role, it may be better to have someone there from the staff to answer any questions that might come forward that they would be capable of answering, but it doesn't sound to her that they have the ability to say, "there's no crime, there's no secondary effects at this point."

Commissioner Ludwig said he shares her concerns and those of Judge Heavey, which is why he wanted to ask the question. It was preliminary to say he doesn't think the WSGC staff ought to go to any public meeting and discuss police issues and crime issues, because it's not their function. The Commission is involved just with regulating the gambling, but if there are documents and if the reviews are public record, they could be available to Mr. Ransom.

Chairperson McLaughlin asked if the Commission is responsible for what's inside the gambling establishment. **Director Bishop** said their jurisdiction is gambling-related issues and he is not volunteering his staff or himself to go to talk to a city to convince them regarding a policy issue that they are taking. He said he was suggesting that staff can go and answer questions from them, but as far as testifying – there are no definitive studies regarding that – they have much better information than the Commission would ever have.

Commissioner Ludwig said he doesn't think the staff should even go to respond to questions in some area that's outside gambling issues.

Commissioner Forrest said if someone is there, they may end up having to say they can't answer the questions, and then they begin to sound like an uncooperative, unhelpful person and it seemed to him that the records will show where and what jurisdictions they have had occasion to contact and he thinks Mr. Ransom ought to go to the source. **Ms. Patjens** said most of the parts of the case reports are not confidential, however, copies of any police report are. **Commissioner Heavey** read from the case report, "Wittmers contacted City of Tukwila police to determine if there have been any adverse impacts on the house-banked gaming on local law enforcement or the community. Wittmers was told the number of complaints received involving the licensee was less than other like businesses in the area. The police department did not believe the house-banked activity had any adverse impact on local law enforcement in the community." He said that if that is public record, then Mr. Ransom could request these records and then utilize them at his public hearing. He said he understands what he is doing but he agrees that they shouldn't be sucked into this process. He said he even has difficulty about telling licensees that there's a moratorium or somebody's talking about some zoning and they should watch out for that. That's not any of the Commission's business – that's local government and they do what they do. If they're entitled to do it, they can do it, and if they're not entitled to do it, then somebody will spend some money and say they are being denied their civil rights or whatever it is and the City's going to have to pay.

Mr. Fleisher said that is what he spoke to the Senate about – the one-paragraph summaries that have been in the reports at the meeting in the Phase II approval process that sort of summarized what the local sheriff or chief relayed to our staff and those paragraphs they could share with them but beyond that it is hearsay.

Commissioner Heavey said he thinks Mr. Ransom's in the spot where he used to be on a regular basis when he was on the county council. The majority on the council was making a decision on political reasons and trying to justify it on other reasons – that's a fact of life in politics; it happens all the time.

Chairperson McLaughlin said it sounds like the commissioners do not want to take on the role of telling the City on points they feel are in their jurisdiction. **Mr. Ransom** said it's not really in their jurisdiction. They are gathering information. That's what the public hearing is and so he was seeking some independent information. He said it may have been his misunderstanding because he thought there had actually been a statistical study and apparently that is not so, but he would appreciate the paragraph so he could at least have that.

Mr. Ransom said his third item is that Cascade Bingo has been concerned because of the discussions of a possible moratorium and that additional names will not be added beyond the pilot study for mini casinos. The concern of Cascade is that they as a nonprofit wrote a letter wanting to become on the list for mini casinos last September and was told that as a nonprofit they could not do that. They were later told that the only way they could get around that was to create a for-profit corporation that they wholly owned and then they created another profit corporation which became Cascade Food Services which, in effect, was their three-day-a-week cafeteria to be a seven-day-a-week restaurant and filed for a Class E card room license as Cascade Food Services and doesn't want to be left out of this in the process that they have been seeking since last September an opportunity for the back half of their building to be created as a mini casino and they've asked him to speak to the commissioners and ask that they keep that in mind when and if the Commission does establish a moratorium.

Chairperson McLaughlin said the Commission is not establishing a moratorium.

Ms. Patjens said the confusion could be over not accepting more applications until July 1, 1999. **Mr. Ransom** said that in addition that there has been some discussion that might be postponed even further. **Mr. Fries** said that that was not correct, that it wouldn't be postponed. The plans now are to start accepting applications on July 1, if the Commission approves the rules. **Mr. Ransom** said Cascade Food Services would be a possibility at that time. **Mr. Fries** said yes, and they had Cascade's application.

Chairperson McLaughlin called for any other discussion.

CARD ROOM PROGRAM LEGISLATION

Tom Humphrey, director of legal affairs for Michael's Development Company, asked to address some of the issues that may be discussed tomorrow relative to betting limits and perhaps limiting the number of table games. He said he will be absent tomorrow because he will be in Olympia working with the RGA, which is a current sponsor of a bill that will allow cities to have certain zoning authority over the location of card rooms and they are meeting with the Washington Association of Counties tomorrow afternoon to discuss with them their support of this particular bill. The bill that had purported to reduce the tax liability of card rooms was essentially stripped of that provision and is a title only bill. The reason that was done was to accommodate this bill if they get the kind of support they are currently anticipating.

Chairperson McLaughlin asked the commissioners if they were willing to hear his presentation today because he would not be present tomorrow. The commissioners agreed.

Tom Humphrey said imposing limits on betting other than those that currently exist or further limiting the number of table games that are permitted will have the impact of limiting the economic opportunity of card rooms. When the Commission considers the policies that will have that effect, he suggests three points for their consideration. First, they should consider the message being sent by action of Legislature that's currently in session. He respectfully suggests that those actions do not suggest that the scope or the extent of the enhanced card room program should be changed at this time. Second, there is no factual basis for distinguishing the card room program for other gambling activities in the state by limiting bets or by limiting further the number of tables that are permitted. If, for example, the policy decision were to establish a betting limit of \$25 as a maximum, that would defeat the intent of the enhanced card room program for reasons he would discuss.

Mr. Humphrey elaborated on each of these points. He said the Commission is in a very unique position to discern what the Legislature wants with regard to the enhanced card room program at this point in time. Obviously, this is because they are in session and they've had before them a number of different proposals.

While a number of legislators have been vocal in the media about their particular concerns about the proliferation of gaming, he thinks they must look at what has happened in the Legislature where the rubber hits the road on these issues. What is it that the Legislature has discerned are the policy issues currently facing them and about which they are concerned? Thus far, those issues include – and he is referring to bills that have some chance of success – a bill that will allow greater input by cities, a bill that will allocate additional funds to problem gaming, and then it's fairly clear that the Legislature is going to establish a joint House/Senate oversight committee for gaming activities. What is very important to note is that there is no legislation to undo what the Legislature has done nor has there been any legislation proposed that would limit the bets that can be placed by gamblers nor limit further the number of tables that an enhanced card room can have and he thinks that speaks loudly to what the Legislature is concerned about.

Mr. Humphrey pointed out that in two specific instances where there have been public hearings on the issue of the enhanced card room program, there has not been any public clamor or outcry about the proliferation of gaming. In fact, the testimony that was given before Senator Margarita Prentice's committee was more oriented toward criminal or crime activity and even that was inconclusive as to what kind of negative impact resulted from the enhanced card room program. In King County, there was a public hearing sponsored by the chief executive of the county. More than 200 people showed up for that particular hearing and there wasn't one person who stood up and gave public testimony in opposition to the enhanced card room program or suggested that the policy ought to be changed to somehow limit the program through additional controls. He encouraged the Commission to listen to the messages that have been sent by the Legislature – not necessarily in the media for media consumption but where it really counts and that is in the halls of the Legislature in the committees and on the floor of both the House and the Senate.

Mr. Humphrey's second point is the discriminatory impact that will occur if they impose betting limits other than those that are currently in the rules. It seemed to him that there is nothing in the enhanced card room program that should distinguish it from the other gambling activities that occur in this state. For example, no limitations are imposed upon how many pull-tabs a particular licensee can sell to somebody that comes into their facility. Limitations are not imposed on the number of bingo cards that a bingo operator can sell. Limitations are not imposed on the amount of the bets that a racetrack can take from a bettor. So what is it about the nature of the enhanced card room program from a policy standpoint that would justify distinguishing it from all the other betting activity that occurs in the state? He suggests that there is no basis for such a distinction.

Mr. Humphrey's final point was that if they were to impose a betting limit as say \$25 that kind of limitation would have the effect of nullifying the enhanced card room program. He expects that tomorrow they would hear further detail about that particular issue.

Mr. Humphrey said, in summary, it is clear from their management of six different card rooms and ownership of two that a \$25 betting limit is insufficient to allow an enhanced card room to operate profitably. The cost of overhead, the cost of surveillance equipment, and the cost of employees cannot be covered at that particular limit. Everybody who operates a card room knows that they are most likely to incur a loss during that initial start-up period until they can go to the larger limits. They go back to the underlying policy of the enhanced card room program economic stimulus for small businesses – an economic stimulus so that small mom and pop operations could compete with Indian casinos in large part. He knows that simply because he has spoken with enough Legislators to know what their thought processes were when they adopted that particular law. Indian casinos have betting limits of \$500. What policy is served by limiting the betting limits of enhanced card rooms to something that is less than or is that a figure that is not going allow them to be profitable. At \$25 it is clear that these operations will not succeed, they will achieve the legislative goal. In conclusion, he thanked the commissioners for listening and taking into account those points.

Chairperson McLaughlin asked if anyone else had comments. No one did. She called for the executive session to discuss pending investigations and litigation.

EXECUTIVE SESSION

MEETING ADJOURNED until Friday, March 12, at 9:30 a.m.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, MARCH 12, 1999

Chairperson McLaughlin called the meeting to order at 9:30 a.m. at Cavanaugh's Ridpath Hotel, Spokane, Washington. She introduced the WSGC staff and Commission members at the head table.

MEMBERS PRESENT: **LIZ McLAUGHLIN**, Chairperson;
MARSHALL FORREST, Vice Chair;
EDWARD HEAVEY; **CURTIS LUDWIG**; and **PATRICIA L. HERBOLD**

OTHERS PRESENT: **BEN BISHOP**, Executive Director;
SHERRI WINSLOW, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy and Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
BOB BERG, Assistant Director, Special Operations;
AMY PATJENS, Manager, Communications and Legal Dept.;
JONATHAN McCOY, Assistant Attorney General;
and **SUSAN YEAGER**, Executive Assistant

APPROVAL OF THE MINUTES FROM THE FEBRUARY 11 AND 12, 1999, MEETING

Chairperson McLaughlin asked if there were any changes to the minutes from the February 11 and 12, 1999, Commission meeting held in Olympia, Washington. There were no changes noted. She said the minutes stand approved as written.

STAFF REPORTS

1999 LEGISLATIVE SESSION

Ed Fleisher gave an update on the legislation that is still "alive" after cutoff dates. The cutoff for action by committees in the house of origin passed last week, so quite a few gambling-related bills did not make it out of committee and are no longer alive, unless some extraordinary parliamentary move is made to revive them. There's a list of remaining bills after cutoff that includes **SB 5013** -- the agency request bill -- on criminal history information and is in Senate Rules and should be coming out probably today. **SB 5124** the prize promotion disclosure bill, which isn't really directly related to this Commission -- it's a consumer protection act bill -- has cleared the Senate, and the House bill has also cleared the House on that. **Substitute Senate Bill (SSB) 5745** the bill to reduce the local tax on bingo games and raffles by charities and nonprofits has passed the Senate and is now in House Committee and now is being considered by the House and has a fairly good chance there. **SSB 5815** is still alive. The original bill was on taxation of social card games and reduced the commercial tax from 20 percent to 10 percent. The substitute bill completely stripped the bill and the language is in here. The bill is sitting in the Rules Committee over there as a title-only for some potential legislation that they may want to hang on to and he is not sure what that legislation is going to be in its current form. It's just statement on house-banked card rooms and says some positive things about the jobs they've created and the tax revenues for local government and also declares that there should be further studying of gambling policy. But that bill is alive but it's no longer a tax reduction bill. **SB 5922** also came out as a substitute that was originally the bill that directed this agency to create a program on problem gambling and brought in some funds from the Lottery Commission as well as from their reserves. The substitute bill has turned it into a study setting up an eight-member legislative

task force to study problem gambling. That bill is in Senate Rules; its counterpart in the House is **HB 2163**. It also is in Rules and has been changed exactly the same as the Senate bill. He expects something will happen on a study this session and that it will be in the form of a legislative committee to do it. It will include a look at problem compulsive gambling. He said they probably will also add a couple of other issues to it, mostly likely issues regarding charitable and non profit gaming – they're still negotiating on that.

Mr. Fleisher said **SHB 1260**, the Recreational Gaming Bill they talked about last month, is on the second reading calendar in the House. The committee passed out a substitute bill. It's basically the same as the original bill, but it did put a couple more limitations on the fund raising activities by the charities. One of the main things the bill did was allow, at these charitable gaming events, persons to purchase additional scrip after they'd paid their fee to get in. They put a limitation on the purchase of additional scrip to a \$200 maximum donation. They put a limitation in that charities and nonprofits could only conduct these twice a year and they put another limitation in saying that the gambling service supplier licensee who would be conducting these events could not provide the facility that the charity or the non profit would have to provide the facility on their own. Their concern was that someone might place and have a charitable event there every night at the same location and they didn't want to have that, so the gambling service supplier cannot provide the facility. **HB 1625**, which was another compulsive gambling bill that was sent to House Appropriations and that did not make it out of Appropriations this week so it is probably dead for the session as well. Same with **HB 2080**.

SSB 2177 is regarding house-banked card rooms. This is the one moratorium bill that is still alive. It would authorize cities and counties take a vote to place a moratorium on additional card rooms in their locale and forward that to the Gambling Commission and the Gambling Commission would be required to stop processing of applications. A couple changes were made in that and the substitute. Counties are now included as well as cities and most significant change is in the original bill it appeared that cities could make this decision to put a moratorium on licenses on a case-by-case basis dealing with individual licenses. The language as it sits now would require in effect an all-or-nothing decision by the city if they want to stop or if they want to put a moratorium from now until April 1, 2000, that moratorium has to be on all new licenses. The other provision of the bill is, in addition to the moratorium, a requirement that the Gambling Commission notify all persons and property owners within one-half mile of the card room of a proposed card room license location and establish a process for public participation in that decision. One thing that came up in several of the legislative hearings on that was some confusion as to the difference in the authority and the process of this Commission versus Liquor Board on both getting public input and what they can do with the public input once they get it. He referred the commissioners to a letter he wrote to Ms. Barbara Lisk, Republican leader in the House who is very interested in this issue. He said it discusses the difference between the authority of the Liquor Board and this Commission is significant.

Mr. Fleisher said that, while this Commission is prohibited from denying a license to a qualified licensee based on an attempt to limit the number of licenses, the Liquor Board shall deny a license if, in the opinion of the Board, licenses already granted for the locality are adequate for the reasonable needs of the community. The Commission is very different and he thinks the Legislature is starting to understand that. He said certain members were concerned about the precedent of allowing locals to decide whether the number of licenses in their locale should be limited. At the same time there is concern about the number of mini casinos out there. That bill is sitting in rules and he will keep the commissioners informed. **HB 2250** is still alive and directly related to this Commission. It would dedicate the business and occupation tax from gambling activities to the Fair Fund. He reminded them that in some of the horse racing legislation in recent years, the horse racing used to fund the county fair activities in the state and it no longer does. The Legislature is looking for a way to find a revenue source for that and this bill is one of several proposals there to come up with a funding source for the Fair Fund. That bill is in House Appropriations but it's a revenue bill that is still alive beyond the cutoff.

Commissioner Forrest said that with regard to giving advance notice, he wonders if the Legislature is aware that it won't do much good to give lots of notice if the Commission is not entitled to act on the comments made. He said there seemed to be an assumption that when they say they can't deny a license for the purpose of limiting the number of licenses, that means that they cannot deny any applicant. He said he was not so sure that follows. If for over 10 years they never granted a new license, if they deny one, it seemed to him, arguably, they aren't doing it for the purpose of limiting the total number of licensees. Leaving that aside, he would hope that somebody on the Commission's behalf would tell the Legislature to do one of two things – either say that they

can consider and respond to local concern about a particular location or don't make the Commission go through the very complex process of locating every individual property owner through the tax rolls or something – it just seems to him to be a show act, not a real act, and he would live with it either way, but he would hate to be put in a position that they are going through a charade and all these good property owners come in and say they don't want it and the Commission says "thanks very much, you're going to get it anyhow."

Mr. Fleisher said he thinks they are beginning to understand, and that's what he testified about and why he wrote the letter to Representative Lisk. He said that a lot of the members who weren't familiar with the laws thought that the Commission could just hold some hearings, listen to the community and then sort of follow the wishes of the community. He explained to both the House and Senate that in order to do that, the Legislature would have to change the Statute to allow the kind of discretion that is granted the Liquor Board to make a more subjective determination on the needs of the local area.

Mr. Fleisher said he has had discussions with some of the members of that House Committee and particularly Representative Lisk, who does understand those concerns pretty well. He said they also discussed that there are really two issues here related to local involvement and moratoriums or limits on the number of licenses. The one is whether the Legislature wants the more subjective decision to be made, and if so, where that decision should be made. Should it be made at the local city level or should it be made at the Gambling Commission level.

Mr. Fleisher referred to a list of the bills that are no longer alive. **HB 1877** would authorize electronic bingo for charities and nonprofits, but the bill did not make it out of committee in the House. There was a lot of discussion on it and a lot of concern expressed by the members for the problems of the charities and the nonprofits, but in the final analysis, the concern about expansion of gambling, which is why that bill didn't make it out of committee. He asked if there were any questions on legislation

TRIBAL LOTTERY SYSTEM

Mr. Fleisher gave an update on with the tribal lottery and the testing of the machines and the time schedule the Commission may be looking at. He referred them to a letter that had gone out to all of the Compact tribes in the state in early February announcing that Gambling Laboratories, Inc. has been approved as a gaming test lab and setting forth some of the procedures that will be involved in getting machines approved. Andy Comer, who is the head person at GLI's main lab in Denver, just sent out a letter to all the tribes explaining in more detail what their processes are.

Testing of these machines first requires a tribe to sponsor a company to get the machine tests. GLI will not accept machines from private corporations, but only from governments including travel gaming agencies. Testing will be a two-phase process. The first phase is the laboratory phase in their Denver offices, which will take about a month. They will then provide a preliminary report to the Commission and the tribe, in effect saying, "So far so good; we recommend you proceed to the onsite testing" because the nature of these machines being relatively complex computer networks, their recommendation is that they do onsite testing with a fuller network system than they will be testing the lab.

Chairperson McLaughlin asked when the machines would come before the Commission.

Mr. Fleisher said that would be after the Phase II testing. Currently two manufacturers have gotten tribal sponsors and had the machines on the way to the lab -- Sierra Design out of California and Multimedia, neither of which is licensed in the state of Washington. They told the tribes the staff would have no objection to their going through Phase I testing without being licensed with the clear understanding that the tribe and the manufacturer bear the risk that they've spent money on the first phase of testing and if their company is never approved for a license, that's their risk. They have told them more than once that Phase II testing will not begin until the company is licensed to sell machines in this state. The actual serum machines will be delivered by the middle of the month and the commissioners will see them and do the approval on it, as part of the Compact. The Gambling Commission has the right to have the full written detail and the materials on the game as well as an actual machine in the Olympia offices. The commissioners will be kept advised and invited in to look at them.

Mr. Fleisher said actual Commission approval will be after Phase II for the reason that until the Phase II testing is over, the staff will not have the final lab report saying that in their opinion it qualifies with Appendix X. Once that report is received and the tribes receive theirs, the 60-day time period of the Compacts starts to run and the Compact provides that the Gambling Commission has 60 days after receiving the final report from the lab to either approve or disapprove the game. If they don't act within the 60 days, it's deemed approved. The testing of the first machine started earlier this month and the earliest machine could be before them for approval by the May meeting, but that is very optimistic and would more likely be in June. Although there are similar devices in play in some states, there are aspects of them that are unique and new.

Mr. Fleisher said the first phase of the testing for the first machine that the lab's been going through is a checklist of all the details that are required by the Compact and it's about 21 pages long. The staff will be going through that to be sure they agree with their interpretation of the language in the compact. As far as staff level, they have hired a transfer of one person over to the IS shop -- Dallas Burnett -- who used to work in that area and has good knowledge of computers. He is going to be the second-level computer expert. They are also looking at someone with more of an engineering-level of computer expertise. At this point they will be probably contracting for those services rather than hiring because their experience and attempting to hire in that market in the Northwest right now for a full time person is a pretty tight market out there. What they need they can probably get better through contract. They will be doing the contract through an office with the community and technical colleges that provides high-level technical people on a contract basis for state agencies.

POKER DEMONSTRATION

Chairperson McLaughlin said the commercial licensees have offered to hold a training session on how to play poker. They brought the table to the front of the room for a demonstration. George Teeny, card room owner from La Center, Washington, gave the demonstration.

RULES UP FOR DISCUSSION AND POSSIBLE FILING

BINGO RULES

Amendatory Section WAC 230-20-115 -- Gift Certificates -- Requirements

Amendatory Section WAC 230-20-125 -- Discounts and promotional gifts -- Authorized -- Limits

New Section WAC 230-02-145 -- Promotional marketing gift defined

Amendatory Section WAC 230-20-242 -- Activities conducted as a part of bingo games -- Authorization -- Restrictions

Amendatory Section WAC 230-20-230 -- Free games for winners -- Restrictions

Ms. Patjens said these are five bingo rules proposed primarily with the Yakima County nonprofit organizations, but also with the WCCGA.

Item 3(a) deals with gift certificates and currently a bingo operation can offer a gift certificate as a prize as opposed to offering cash or merchandise. The current rule allows them to do that four times a year. Under the proposed rule, there would not be a restriction. They could do an unlimited number of gift certificates as prizes. Also changed is that the current rule states that the gift certificate would be \$40. Under the proposed rule, that would be increased to \$50.

Item 3(b) deals with the different discounts and promotional items that a bingo operator can give to its players. Under the current rule, the operator can provide discounts or gifts of nominal value eight times a year. Under the proposed rule, that would be increased to 12. The other changes that the value of the promotional or merchandise gift would increase from \$3 to \$5. There was also a change made under the frequent player incentives, which can be thought of in the same vein as frequent flyer incentives where the amount percentage-wise would be increased from one and a half to two percent. There is one change they wish to make to the rule. Currently what it says is that if someone turns in his or her frequent-player miles, it would be for a promotional market gift. What the licensees would like to do is add in that it could also be a merchandise prize with the cost of \$20 or less. The reason for that is that if they have players who perhaps would rather win a different merchandise prize, they want to have the ability to do that.

Ms. Patjens said item 3(c) is simply a definition of promotional marketing gift. Item 3(d) just needed to be reworded if they were going to be rewording 3(a). Item 3(e) deals with the activities that can be conducted as part of bingo games. It allows for the good neighbor prize schemes but also would add a proviso that if there were other approved criteria; they could do games that way. What the rule change would do is that the Yakima County nonprofits would like to be able to have buddy bingo, which is where the winner can say, "And I'm going to give my prize to Ben." What that helps do is then it will encourage a player to bring someone along with them, which will help attendance and help prizes. The staff recommends filing for further discussion.

Commissioner Herbold referred to rule 3(a), the additional language that's been added in subparagraph (b), directly below that in number 6, it says, "certificate shall only be redeemed for bingo cards, food, drink, merchandise, punch boards, or pull-tabs upon a licensed premises, " but then going back to (b) it says "redemption of gift certificates shall not be limited to a specific gambling activity, provided that they may be specific with bingo." She asked Ms. Patjens to explain what that means and how that works. **Ms. Patjens** said it would allow them to give the gift certificate to say that they do need to come back and use it only for bingo as opposed to having it be broad where the gift certificate would be for anything. The purpose behind that is, of course, to encourage people to continue to play bingo. She asked Ms. Herbold if she might be thinking that the word "provided" should actually perhaps be behind 6 instead of where it is. **Commissioner Herbold** said, no in 6 it says it can be for punch boards and pull-tabs and those are specific gambling activities so redemption is prohibited for specific gambling activity but then right below it, it says it can be redeemed for punch boards and pull-tabs, so she was confused about how that all plays out.

Ms. Patjens said what she thinks what they were trying to do in the first part of the redemption of gift certificate where it says, "shall not be limited to specific gambling activity" was that they didn't want to just be basically changing from one activity to another. What some people had perhaps wanted to do in the past was say this gift certificate is only good for pull-tabs and they wanted to say that the only time that they really earmark it specifically is in the case of bingo. **Commissioner Herbold** said that means basically that someone has a certificate with a dollar value and they can go back to this establishment and use it to buy pull-tabs or food or to play bingo.

Chairperson McLaughlin called for public testimony and any one wishing to testify to anything under bingo rules (a), (b), (c), (d), and (e).

Cecilia Vogt, executive director of Yakima Greenway Foundation, home of Greenway Bingo, said her group had made the suggestions for modifying this somewhat. They are asking for more liberal rules so that they can market their games a little better and attract more players and they are very much in favor of these changes.

Commissioner Ludwig moved to file the rules for further discussion; **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

Ms. Patjens asked if that motion includes the additional language for Item 3B about allowing them to do the merchandise gifts. **Commissioner Forrest** said "as orally amended." **Chairperson McLaughlin** said yes.

CARD ROOM RULES

Ms. Winslow said she would be brief on these rules, but she would stop at each rule where they have been informed there may be potential changes or comments prior to filing.

Commissioner Forrest asked if Ms. Winslow preferred, for example, when they are discussing something like "limits" where there may be some difference of opinion, that the commissioners take some kind of vote before filing or does it make any difference whether they change that after a rule is filed at subsequent hearings when they may have heard from the industry or whatever. **Ms. Winslow** said she had discussed a great deal and preferred to defer her response to the attorneys to provide answer to that because that it is a concern. **Director Bishop** said it might make things work better if the alternative suggestions are filed along with the original rule

proposal. **Commissioner Forrest** said if, for example, they had a change of heart, which they obviously can do, it's not a question that they legally can't make an amendment later on, but it's just that they would like to get the ground rules laid out as much as possible. **Director Bishop** said there might be timing problems if they make substantive changes late in the process; he would refer to his attorney on that.

Commissioner Heavey asked if a substantive change is defined. **Mr. McCoy** said the general rule is that if it's covering the same subject area and if the public is on notice that a particular item was to be before the Commission specifically, then it wouldn't be a substantive change. If, for example, the "wagering limit" was the subject matter of the debate and a proposal is made to change it from \$50 to \$75, that would probably not be a substantive change under the law because the subject matter wagering limits is already on the table. It would probably be prudent if those kinds of changes were made that they made earlier in the process because even if were substantive change, if there's still time during the 30 days prior to passage, then they really would not run into any problem.

Mr. Fleisher said to clarify that, another example would be the cashing of checks, which isn't mentioned at all in the rules. At a later time, if they wanted to add that in, that might be a substantive change because the public wasn't on notice that there would be rule related to that subject matter. **Commissioner Forrest** said or some definition or clarification of "primary" or something like that, which is not currently addressed.

Chairperson McLaughlin suggested taking the rules by category, for example, under card room rules a) the general card rooms from A to P and she would take public testimony on that portion and then go on to the next portion.

Ms. Winslow said she would touch on each WAC rule and title briefly and where she sees that there might be need for discussion or potential change, she would go into more detail.

A. General Card Games

- a) **Amendatory Section WAC 230-40-010 – Types of card games authorized**
- b) **Amendatory Section WAC 230-40-015 – Rules by which the authorized card games shall be played**
- c) **Amendatory Section WAC 230-40-030 – Number of tables and players limited**

Ms. Winslow said WAC 230-40-030 increases the tables to 15 and the players are limited to 10 for non-banked, and seven for banked games with nine spots for wagers. There can be two additional spots on the table for additional wagering passes in addition to the seven spots for the seven players. **Commissioner Forrest** said one person can play two hands. **Ms. Winslow** said that was correct. **Commissioner Heavey** said he thought she was talking about side bets. **Ms. Winslow** said no. **Commissioner McLaughlin** said they were talking about 21 or blackjack in this rule. **Ms. Winslow** said they were talking about both non-banked and house banked games in this rule. **Commissioner Forrest** asked how this fit into the general pattern around the country for playing these games – is customary or different? **Ms. Winslow** said that as far as the number of spots per table, it is customary for the state of Washington to have nine spots per table and, as the testimony went yesterday, there are other locations in the U.S. that have nine spots per table, but those are only locations where tables are limited in a facility. **Commissioner Heavey** said the commissioners and staff watched a demonstration of a digital card game yesterday, and the table had six positions. He responded that six was the standard, so Commissioner Heavey doesn't understand why they keep hearing different standards. He said he didn't understand why they hear seven, nine on day cruise ships, and six from somebody who doesn't have anything at stake in terms of the play. He just said "Well, this is what is normal in all the places we demonstrate this machine."

Chairperson McLaughlin said the woman who reported about cruise ships said the reason they have nine was because they were limited on space so they couldn't have very many tables. **Commissioner Heavey** asked what the standard is in Las Vegas. Someone from the audience said seven.

Commissioner Ludwig suggested deleting the provision in paragraph one that read, "provided that the number of spots for wagers at house banked card tables shall not exceed nine." He said he proposes taking that out completely or changing it to the number of spots not to exceed seven.

Commissioner Heavey asked what is the standard in tribal casinos. **Ms. Winslow** said there are quite a few tribal casinos that do have nine spots for tables, but suggested asking members in the audience. **Commissioner Heavey** wondered if the compact limits the number of positions. **Eric Durban**, from the audience, said that is not in the compact.

Chairperson McLaughlin asked if he meant that he wanted the sentence that read, "provided that" taken out and what in addition. **Commissioner Ludwig** said either to take it out or change it to "Provided that the number of wagering spots also be limited to seven," so that there's seven wagering chairs and spots at each house-banked blackjack table. **Chairperson McLaughlin** said that would be an option for the commissioners to choose from.

Commissioner Herbold said this is one of several alternatives that she would be suggested. **Chairperson McLaughlin** asked if it were necessary to vote on Commissioner Ludwig's suggestions. **Commissioner Ludwig** said he just proposed it; it wasn't a motion. **Chairperson McLaughlin** asked Ms. Patjens if anybody could propose anything, for example dozens of proposals. She thought they should agree on it. **Commissioner Heavey** said these are just alternative proposals for further discussion, but the initial rule changes should be filed first.

Ms. Patjens said when they were doing the vote to file, assuming they will vote to file them, then if there's an alternative that the commissioners also want them to file, they would need to vote on the proposed rules and each alternative. **Commissioner Forrest** said it would be simpler to do it as they went along. He said if they end up with 10 alternatives and then they vote to file the rules, it would then be necessary to have a whole series and it seemed to him to be simpler to take them. **Chairperson McLaughlin** said she agreed and thought they should vote on the one they had been discussing first.

Bob Tull, attorney for the RGA, suggested that votes on alternatives be open for public comment. He said it was his understanding that the Commission was going to have public testimony prior to a vote on filing, which has been the practice with the rules until a few minutes ago. After some commentary, then there's a discussion as to what to file. He said the RGA supports the notion of having some alternatives so that there isn't a procedural nightmare at the end. **Chairperson McLaughlin** said they were not voting on whether or not the commissioners agree with his alternative; the commissioners were voting on whether the alternative should even be put before the public to testify to. **Mr. Tull** said it was with that in mind that he was still suggesting that the Commission may want to wait – it is up to the Commission – they know in due course they will have plenty of chances to speak specifically to them, but he was just suggesting an opportunity for comment prior.

Commissioner Ludwig said if that is the procedure, he would like to change what he made as a suggestion for an alternative to a motion to amend proposed rule 4A(c) to read that, "in house banked card games the limit is seven players for all house-banked card games and that only seven wagering places be allowed." He said he could speak to the motion later. **Commissioner Forrest** seconded the motion. **Chairperson McLaughlin** restated the motion to amend WAC 230-030 to change the number of spots for wagers from nine to seven and only have seven seats and seven spots at a table.

Commissioner Forrest said he still likes the idea of having all these alternatives and then there would be a month. Mr. Tull's point, both the proponents or any possible opponents of these various alternatives would have a chance to talk to the commissioners and if they vote to file it with a particular form, they lose that benefit and he thinks their attorney correctly advises that they are talking about places at the table that they can be amended as they went along. He said it would be a nice situation that they have the other alternatives the Commission thinks are worth thinking about out there for everybody's knowledge and then when they come back a month from now, they can get pros and cons on these and the person who made the proposal may change his mind and those who were skeptical in the beginning may change their minds the other way. He prefers Commissioner Ludwig's first suggestion that they submit an alternative and that they vote on whether they submit an alternative, but that's a lot more fluid than voting to change the rule that they are going to file. **Chairperson McLaughlin** said that was what she thought they were doing at first. **Commissioner Forrest** said he opposes the motion even though he seconded it in its present form. **Commissioner Ludwig** said that procedurally as a maker of the motion he has not strong -opinions as to how they proceed, but just to have that before the commissioners.

Commissioner Heavey said it appears to him that they are going to file these rules for further discussion because they can't not file because they have to have some rules before they can be amended. He wondered why they didn't just move to file them for further discussion and then go through them and say, "Well, we want to have this change so we make this motion for this alternative," and then they discuss and decide if they want this alternative, people have an opportunity to respond to each one of these individually and then they make the decision whether they want to file that alternative. From a practical standpoint, they can make a motion to file all of them. **Chairperson McLaughlin** said he is suggesting that all the rules be filed for discussion first.

Commissioner Heavey said they have to file them; they don't have an alternative – either that or they don't regulate this activity, so they file them and then Ms. Winslow goes through them and then if Commissioner Ludwig wants to make an alternative or Commissioner Herbold wants to, then they say what they think ought to be done, make a motion, they consider that as an alternative rather than an amendment and then have the people who want to comment, comment on it and then they vote whether they want that alternative proposed.

Chairperson McLaughlin said it sounds like a good idea to her.

Commissioner Ludwig withdrew his motion with the consent of the second. **Commissioner Forrest** consented to the withdrawal.

Commissioner Heavey moved to file rules 4A through 4E for further discussion. **Commissioner Ludwig** seconded the motion. *Vote taken, motion carried with five aye votes.*

Commissioner Ludwig moved that the proposed rule WAC 230-40-030 be changed to provide in paragraph one that the number of players for house-banked card games be limited to seven and the wagering spots also be limited to seven. **Commissioner Herbold** seconded the motion. **Commissioner Ludwig** explained his reasons for this change. He said the Legislature limited the number of house banked tables to 15 per establishment and then in spite of all the discussion about cruise ships and the video-type game they saw yesterday what they do in Nevada, what we do in Washington, I think it is generally conceded that the standard for blackjack tables is seven. He said he understand the reason why they might have nine when it's non banked blackjack like Washington blackjack, but given the fact that it's seven when the House said up to 15 tables he thinks the public policy would suggest that that would limit it to 105 players per licensee if they're all blackjack-type players. If they start increasing the wagering spots by two at each table, they have then increased the practical limits to 19 tables of standard-sized seven players and he thinks that's changing the policy that the Legislature had set with the 15 tables for an establishment and he does not think they ought to expand it that way.

Chairperson McLaughlin asked for further discussion. She called for a clarification they open it for public testimony on the amendment. **Mr. McCoy** said she could open it up for public discussion at any point. She asked how the rest of the commissioners felt about it. **Commissioner Forrest** said he would prefer to get all of the changes out and everyone involved would be better off if the alternatives that have occurred to the commissioners so far are out there for the public to respond to and particularly for the industry to respond to and be more knowledgeable and more interested before they start doing it kind of piecemeal. **Chairperson McLaughlin** said that in this case it is not an alternative. He's asking to amend a WAC rule and that's what she is concerned about -- if it was just another alternative being put forward, she'd say let's wait on it. Commissioner Forrest said that was why he was going to vote against his motion.

Vote taken, motion failed with three no votes (Commissioner Heavey, Chairperson McLaughlin, and Commissioner Forrest voted no).

Commissioner Ludwig moved that an alternative be placed on the agenda to prohibit more than seven places. Commissioner Heavey seconded the motion. *Vote taken, motion carried with five aye votes.*

Commissioner Herbold proposed an alternative to be considered, but first she wanted to make some preliminary remarks so she doesn't have to repeat them. She is concerned that the Commission is jumping in with both feet on many of these when it's not necessary and its going to create a situation where they will need to increase their staffing levels significantly to handle all of this that's happening. She thinks there's a lot of discussion and negative publicity regarding how this all came to be and many members of the Legislature feel that they were not fully informed – they thought it was a housekeeping item and many of them wished that they

could do it over again. She didn't think that would happen – they wouldn't rescind this, but she doesn't feel there is any reason for them to go full steam ahead on some of these numbers.

Commissioner Herbold said she would like to suggest an alternative to the maximum number of tables to 10 at this time, with the understanding that it's a first step with permanent rules. They can test how this works with the staffing level. They can try to increase the staff to meet the demands that this will place on the Commission, contemplating the potential of 80 card rooms in the not-too-distant future. She said there's no reason why that number can't be moved later on when they feel they have a better grasp of the situation.

Commissioner Herbold moved that there be a maximum number of 10 tables at this time. **Commissioner Heavey** seconded the motion. *Vote taken; motion carried with five aye votes.*

d) **Amendatory Section WAC 230-40-050 – Fees for Card Playing – Method of assessment and collection – Maximum fees**

Ms. Winslow said this WAC establishes authorized methods and amounts to assess fees. It limits collection methods allowed in the manner the collections are made.

Commissioner Ludwig asked if that is what is the way they have been doing it under the test program. **Ms. Winslow** said there are further limits in this that weren't in the test program. **Commissioner Heavey** said he thought she was only going to go over the rules that had been discussed and are in possible need of change. **Ms. Winslow** said there is a chance that there may be someone that might want to comment on that and that was one she wasn't too sure about.

e) **Repealed Section WAC 230-40-060 – Persons shall not share in winnings or charge additional fee for playing cards**

f) **Amendatory Section WAC 230-40-070 – Licensee to furnish all cards, chips and other services**

g) **Amendatory Section WAC 230-40-120 – Limits on wagers in card games**

Ms. Winslow said this WAC establishes wager limits for non-house-banked and house-banked games. Non-house-banked games have five betting rounds with a maximum wager of \$25. House-banked single wagers cannot exceed \$25 for Phase I and \$100 for Phase II and PSJ wagers cannot exceed \$1.

Commissioner Herbold moved to have an alternative rule to this one to reduce the maximum wager for the house-banked games to \$50 rather than \$100 and with respect to the poker she said she didn't know how to adjust the numbers, but based on the yesterday's chart, these new rules would effectively move the maximum bid from \$90 to \$500. She suggested a lower number so they don't jump to \$500, but some lesser number, say \$250 – she said she didn't know how to come up with the formula to do that, but she knows it's difficult to figure out based on the numbers of wagers, but it seemed to her like \$90 to \$500 is a dramatic jump. **Commissioner Forrest** seconded the motion.

Vote taken; motion carried with five aye votes.

h) **Amendatory Section WAC 230-40-125 – Washington blackjack – Rules of play – Wagering limits**

i) **Amendatory Section WAC 230-40-130 – Wagers to be made with chips only**

Commissioner Heavey asked if, with chips only, could the player buy the chips at the table or was it a house rule. **Director Bishop** said it was required that they purchase them at the table.

j) **Amendatory Section WAC 230-40-150 – Side bets prohibited**

Ms. Winslow said this had been repealed and moved to another section.

k) **Amendatory Section WAC 230-40-160 – Wagers by other than participants prohibited**

Ms. Winslow said this had been repealed and moved to another section.

l) **Amendatory Section WAC 230-40-200 – Participants to compete on equal terms – Deal to rotate among players**

m) **Amendatory Section WAC 230-40-225 – House dealer allowed in certain games**

n) **Amendatory Section WAC 230-40-400 – Hours ((limited)) for card games – Procedures for changing hours**

Ms Winslow said this WAC limits the multi-ownership in card rooms within one mile to one another to the same operating hours and also provides terms for extended hours and how denials are handled. **Commissioner Herbold** moved to place an alternative for discussion that the first paragraph where it says "licensee shall not allow the use of their premises for card playing between the hours of 2 a.m. and 6 a.m." and delete the rest so that it is a fixed time period. **Commissioner Heavey** seconded the motion. **Chairperson McLaughlin** repeated the motion that there be a fixed time period of 2 a.m. to 6 a.m. **Commissioner Heavey** said the amendment would strike everything after a.m. including subparagraphs (a),(b), (c), (d), (e), (f), (g). **Commissioner Herbold** said it would include two and three as an alternative for discussion at a later date. *Vote taken, motion carried with four aye votes; Commissioner Forrest voted no.*

Commissioner Heavey asked if close proximity is defined. **Ms. Winslow** said "close proximity" was defined in subsection 1 f) to be within one mile of each other. **Commissioner Heavey** said they struck that subsection. **Chairperson McLaughlin** thought that if this alternative were chose, it would make it null and void. **Commissioner Heavey** said that assuming they had flexible hours, he would move that the alternative be that "close proximity" means adjacent to each other rather than within one mile. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

Commissioner Ludwig moved to consider one further alternative to have a similar rule, but change the hours from 4 a.m. to 8 a.m. **Commissioner Heavey** seconded the motion.

Chairperson McLaughlin said she has been talking with some of the licensees and the one of reasons they changed to flexible hours in the first place was because people were having illegal games after closing hours. They would stand out in front of the house and as soon as the place closed, they would say, "Well, I've got a game going down at so-and-so." As a result, this type of behavior has been avoided by having flexible hours. The other thing is that closing at another time other than 2 a.m. when the liquor is shut off allowed people to have something to eat without drinking, and perhaps they went home not quite as intoxicated as they might have been. She just wanted the commissioners to keep that in mind.

Chairperson McLaughlin called for the vote on changing the flexible hours to 4 a.m. to 8 a.m. *Vote taken; motion carried with four aye votes; Commissioner Forrest voted no.*

Ms. Patjens asked if the change means the staff should strike everything after paragraph (1), including where it begins with the word, "Provided." **Chairperson McLaughlin** said that was how she understood it and **Commissioner Heavey** said that was his intention. **Mr. McCoy** said the original provision has already been voted on to file, there would be an amendment proposed by Commissioner Heavey, which would only change subsection f) to say "adjacent to" as opposed to "within one mile of each other"

Mr. McCoy said the original provision has already been voted on to file for further discussion, and there have been alternatives proposed by commissioners Herbold and Heavey. The third alternative is Commissioner Herbold's amendment by Commissioner Heavey.

o) Amendatory Section WAC 230-50-010 – Adjudicative proceeding – Hearings

Ms. Winslow said "o" is related to adjudicative proceedings. **Mr. McCoy** said a portion of this is related to adjudicative proceedings on extended card room hours and would not be necessary if the other alternatives are adopted. Some of it would still be applicable; some would not. **Commissioner Herbold** asked if this could be amended without the change considered being substantive. **Mr. McCoy** said changes made such as are necessary to make the rule consistent with the alternative would not be considered substantive.

Commissioner Heavey asked if, when Ms. Winslow indicated that some items are repealed and included in another rule, are those new rules applicable to all card rooms whether they are part of the house banked or the old fashioned card rooms. **Ms. Winslow** said the two previous rules she mentioned were applicable to all card rooms and the new rule is also applicable to all card rooms.

p) Repealed Section WAC 230-40-900 – Public card room enhancement program – Pilot study and test

Chairperson McLaughlin called for public comments on 4(a)-4(p).

Mr. Tull, attorney for the Recreational Gaming Association, said the RGA is an industry association of licensees in the various card room programs in the state of Washington. Based on the adaptive approach the Commission is taking this morning, he will be very brief on behalf of the others who were going to offer some remarks this morning. The approach taken by the Commission will make it easier to organized comprehensive analytical-type testimony and other useful information for next month's meeting. He said they do want to point out that each of these rules were introduced by "staff in conjunction with card room operators/licensees." There has been an effort to work out a lot of bugs during that process. Of course, the Commission has the final call, and they are aware of that. They appreciate the opportunity to see if there are ways that they can come back with their own alternatives or help the Commission to understand the impact of these alternatives. There are plenty of people who want to testify.

Mr. Tull said, regarding what Mr. Humphrey said late yesterday afternoon that they continue to believe that there is not the type of crisis of confidence that requires putting additional significant restrictions on this industry. Also, they are trying to respond to the types of concerns out there in the Legislature and communities. As Tom indicated, he couldn't be at today's meeting because he is in Olympia to meet with other RGA representatives and with some of the municipality representatives to see if they can work together to fine-tune the opportunities and tools the cities and counties have available to them. Last month, **Mr. Tull** said he spoke briefly to the fact that they are working on that. His hope is that they can make the various municipalities understand that the Commission does a heck of a job of regulating these activities. It's up to them to decide which parts of their communities should have big restaurants or little restaurants; big parking lots or small parking lots, etc. The RGA believes that, in the communities where enhanced card rooms have been operating, there have not been problems; therefore, in time these issues will moderate greatly. They will withhold their somewhat intense comments on some of these things and come back next week very focused with what they have to say.

Commissioner Ludwig commented on what Mr. Tull said about "additional restrictions," and said he would hope they all remember that this was a test program. None of this constitutes "additional restrictions," and he would hope that Mr. Tull and the industry operators would keep in mind that this test was entered with their eyes wide open. If the Commission were to do something that would have an impact on them, such as cutting tables from 15 to 10, he would hope they would remember that that was the potential from the outset and should not be considered an additional restriction. **Mr. Tull** said he would remind himself to never argue with the Commission. He believes that the affects and context of that type of regulation needs to be fully understood and explored. That's something they can all work on.

Commissioner Forrest suggested that people who have concerns should send a brief, one-page memorandum to the Commission, so they have a chance to think about it. Today will get somewhat harassed toward the end and some comments may be overlooked unless they are in writing. This will also give the staff a chance to give their input, so comments should be put it in writing

Commissioner Heavey said he assumes the context of Mr. Tull's remarks are that he believes that the rules as proposed are the rules that should be adopted, and that, in general, Mr. Tull doesn't believe it's necessary to make any changes. **Mr. Tull** said there are a few situations where the rules as filed contain some variations that had not been the explicit product of the collaborative process. Some of the rules they will come forward and talk about. Generally, they do represent what the RGA thinks fulfills the policy targets of RCW 9.46. They believe they are on the same regulatory wavelength as the staff. They will try to help the Commission understand, from their perspective, concerns about non-regulatory policy and the very question of that distinction. They do recognize the need for them to also see it from the Commission's point of view.

Chairperson McLaughlin asked for further testimony.

Tim Connelly, License Officer, Spokane Police Department, said he would like to address WAC 230-40-400, the process for deviation in card room closing hours. He said the Police Department would like the procedure to continue where law enforcement concurrence is needed for a deviation in hours. This has no reflection on the local Gambling Commission office, but they are understaffed; agents have 100-150 licensees to inspect. As a licensed officer for the City of Spokane, he has five establishments -- card rooms -- that he is responsible for. He

has a 115-person patrol division that keeps an eye on these establishments for him during the late hours. He thinks they are in a better position to know what the problems are regarding these establishments than an officer who has from here to Grant County with 100 other establishments. Taking their concurrence out would substantially reduce their ability to police problems that sometimes occur at the card rooms. His job is fairly easy because he works well with the five establishments; they cooperate well and there is a lot of communication between them. A year ago, that wasn't the case. The Police Department must have the ability to say, "yes, we know what the problem is regarding this establishment better than someone who has 150 others."

Officer Connelly said regarding the second alternative where they close at 2 a.m., period, they would have no objection to that. If all gambling establishments must close at 2 a.m. and can't open again until 6 a.m., they find no problem with that. The third alternative, the 4 a.m. to 8 a.m., is kind of a gray area and they don't know what that would do. They feel they need to be able to say a particular establishment has problems and should not be allowed to stay open. He urged the Commission to retain the part of the WAC that requires local law enforcement concurrence to any deviations in the hours after 2 a.m.

Commissioner Heavey asked what his position is on the Spokane Police Department. **Officer Connelly** said he is a patrol officer in charge of licensing, a senior patrol officer.

Commissioner Ludwig asked if it would be fair to say that they have only had problems with one operator, and that operator is gone. No one across the state besides this one operator has had such problems. **Officer Connelly** said it took them an entire year's time to take care of. Although the five establishments they work with now are cooperative, they have to be able to deal with any problem that may occur in the future.

Mike Piccolo, Assistant City Attorney for the City of Spokane, said the City has the same concerns that Officer Connelly just explained. They have limited control of gambling activities in the City, and obviously the Gambling Commission has the bulk of the control. They are few limited options: outright prohibition of gambling, which the City Council is hesitant to do; and limitations with zoning, which still won't solve the problem that Officer Connelly explained. The third control is under the WAC provision for local concurrence for extending the hours. There have been no evidences of abuse of this authority, and every operation that has requested extended hours has received extended hours. There has only been one occasion when, after the hours were extended, they withdrew their concurrence. The City would not want to put the Gambling Commission into the position of judging the City's discretion, and that would be a very uncomfortable position for them to be in when the local police authority is the entity that has the experience on the street and in the establishments on a daily basis. The City would object to any changes to the provision as it exists right now. In terms of the amendment that sets the hours from 2-6 a.m., the City would agree with that. He anticipates that the cities and counties of Washington will be coming back to the Commission with addition information, as was suggested by the Chairperson.

Commissioner Heavey moved to file an alternative in light of the comments just heard. He said the alternative is to restore the provisions from the test program that requires concurrence of the local law enforcement agency and the state agency that has regulatory jurisdiction. That's WAC 230-40-400, and it would reinstate the language that is lined out and remove the language that is underlined in subparagraph (a) and (b).

Commissioner Herbold and Forrest seconded the motion.

Mr. Fleisher asked for clarification. He asked if the intent is to restore the language in subsection 1 through (e), but leave the new language beginning with (f) and on down to the bottom of the page. **Commissioner Heavey** said yes, he is just changing (a) and (b) as an alternative.

Vote taken; motion carried with five aye votes.

A. Player Supported Progressive Jackpots

- a) New Section WAC 230-40-600 – Authorization procedures for player supported progressive prize contests
- b) New Section WAC 230-40-610 – Player supported progressive prize contest – Restrictions – Manner of conducting – Approval

Ms. Winslow asked if there were any questions on these. **Commissioner Ludwig** said he has a question about the requirement that at all times, from the first day on, the operator must have enough cash on hand to pay off

the prize winner. **Ms. Winslow** said that would be in the minimum bank, and that is under 4 C (g), which she will be reviewing later.

Chairperson McLaughlin asked if anyone wished to testify. No one did. She called for a break.

****RECESS****

Chairperson McLaughlin called the meeting back to order at 11:45 a.m. She said she would adopt a faster method of going through the rules. She asked Ms. Winslow to only speak to those there has been discussion on or concerns about.

- A. House Banked Card Games and Additional Requirements for PSJ's and Specific Fee Assessment and Collection Methods
 - a) New Section WAC 230-40-800 -- Adoption of rules for house banked card games
 - b) New Section WAC 230-40-810 -- Authorization procedures for phase II wagering limits for house banked card games
 - c) New Section WAC 230-40-815 -- House banked card games - Management and accounting control structure -- Organization of gaming operation
 - d) New Section WAC 230-40-820 -- House banked card games -- Internal control evaluation -- Required procedures

Ms. Winslow said there are three rules in this section that have been discussed at length and comments may come forward about them. WAC 230-40-820, house banked card games, internal control evaluation. This WAC enhances the licensees' control environment through an internal control evaluation performed to determine whether internal controls exist, they operate as stated, and they are adequate for the size of the operation. It is separate and apart from the Commission's regulatory program, but enhances the licensees' internal control system.

Commissioner Forrest said this reflects the discussion they had the other time regarding CPAs and so many hours for a review, etc. In essence, this says the Commission staff can do it if the personnel are available, but the Commission can also contract out if necessary. He said that sounds pretty good to him. **Commissioner Heavey** said yes, except that the person contracted must be a CPA with adequate experience, training, or education in the gambling industry. He said that is his alternative.

Commissioner Heavey moved that the person getting the contract must be a CPA licensed in the state of Washington with adequate experience and education in the gambling industry. **Commissioners Herbold and Forrest** seconded the motion. **Chairperson McLaughlin** asked if the motion means the Commission can contract out. **Commissioner Heavey** said or anybody who does an audit, whether it's by contract or an audit that is going to be submitted to the Gambling Commission. Whether that is by contract or by someone who is hired by the licensee for this purpose. *Vote taken on the alternative; motion carried with five aye votes.*

- e) New Section WAC 230-40-825 -- Closed circuit television system requirements and procedures
- f) New Section WAC 230-40-830 -- Cashier's cage -- Requirements
- g) New Section WAC 230-40-833 -- Cashier's bank and minimum bankroll

Ms. Winslow said WAC 230-40-833 was also the subject of discussion. This WAC establishes requirements for sufficient funds to meet all cash-outs and prize pay-outs. It requires an imprest basis, but allows alternatives as long as the staff approves them. She said that Commissioner Ludwig had mentioned that he was interested in this.

Commissioner Ludwig asked how that they have enough cash to cover a jackpot would be verified. **Ms. Winslow** said the staff would look at the bank accounts, because for their jackpot amounts, they would have to have those funds available to pay out any prizes that they are currently offering. **Commissioner Ludwig** said they could have a winner wipe them out before they receive sufficient income to pay it. **Ms. Winslow** said they would not be able to offer that prize unless they have the funds in the account, which would be verified in advance. **Director Bishop** said that would be part of the routine fieldwork during the review.

Commissioner Heavey asked if that money would have to be in a trust account or an earmarked account. **Ms. Winslow** said for the progressive jackpots, it's an earmarked account, but it's not necessarily a trust account.

- h) New Section WAC 230-40-835 -- Accounting controls for cashier's cage

- i) New Section WAC 230-40-840 -- Drop boxes – Requirements
- j) New Section WAC 230-40-845 -- Procedures for exchange of checks submitted by gaming patrons at cashier's cage

Ms. Winslow said that is the third party check section. **Commissioner Herbold** moved to have an alternative to this section that prohibits cashing of third party checks. **Commissioner Heavey** seconded the motion. **Commissioner Ludwig** said he will support the motion because it's just for discussion. However, he thinks the Commission might be encroaching on an operator's normal business decisions. **Chairperson McLaughlin** said her reasoning is with regard to problem gambling because they gamble their entire paycheck away. If they can't cash their paycheck there, then they might not spend it all there. She also realizes that there are small places where the patrons are all well known and they would cash their third party checks.

Commissioner Forrest said he is for putting it on as an alternative, as long as the problem gambling people have some hard evidence that this is some substantial issue. At the moment, it seems to be pretty peripheral and he's inclined to agree with Commission Ludwig in that it's a business decision, but it won't do any harm to have it up for discussion.

Vote taken; motion carried with five aye votes.

- k) New Section WAC 230-40-850 -- Procedures for accepting cash at house banked gaming tables
- l) New Section WAC 230-40-855 -- Acceptance of gratuities from patrons for house banked activities
- m) New Section WAC 230-40-860 -- Table inventories and procedure for opening tables for house banked card games
- n) New Section WAC 230-40-865 -- Procedure for distributing gaming chips and coins to house banked gaming tables – Requests and fills
- o) New Section WAC 230-40-870 -- Procedure for removing gaming chips and coins from house banked gaming tables – Requests and credits
- p) New Section WAC 230-40-875 -- Procedures for closing house banked gaming tables
- q) New Section WAC 230-40-880 -- Count room – Requirements
- r) New Section WAC 230-40-885 -- Counting and recording contents of drop boxes – Procedures
- s) New Section WAC 230-40-890 -- Signatures – Requirements

Ms. Winslow said that concludes her comments. **Chairperson McLaughlin** opened the meeting up for public testimony on the rules 4C (a) through (s).

Rick Balam, Balam Consulting, said he was in law enforcement since 1968 and retired in 1996 as the director of public safety for the Swinomish Tribe, he was also the chief of staff for the gaming commission. He asked the Commission to consider an alternative to WAC 230-40-820, which is the internal control evaluation. He said this proposed rule apparently mandates that the Commission staff conduct the internal control reviews and audits or would have the ability to contract with outside services to complete this process. He recommended changing the proposed WAC to read, instead of "Commission staff will complete a review and evaluation" to "approved service providers." Those persons physically conducting the review of the audit have, at a minimum, two years of Washington house-banked gaming experience or Class III gaming experience. Review and audit modules and reporting formats must be pre-approved by the Commission staff for use by the service providers. That it would be incumbent on both the service provider and the casino management to report violations within 48 hours to Commission staff, and that Commission staff would determine the amount of review hours. The service provider would have on staff or would contract with a certified public accountant to finalize annual review of the process, including the yearend report. He believes that by using service providers for this process, it may allow Commission staff additional much-needed time to conduct current day-to-day business without being required to hire additional FTEs and also go through a lengthy training process. This also provides for a system that allows those businesses to make choices, service providers allow for independence of the audit process and the Commission receives, on a timely basis, the reports requested and required.

Commissioner Ludwig asked him to be more specific about the requirement for a minimum of two years experience. **Mr. Balam** said his people have all been involved in the gaming industry in the state of Washington, beginning with the tribal casinos, since 1992. They are requesting that those people who actually do the physical audits would have been involved for at least two years with the house banked or Class III gaming, in the auditing areas.

George Teeny, owner of the New Phoenix card room in LaCenter, said the WSGC staff was kind enough to put some industry people together with the staff to discuss some of the rules that are being discussed today. When

this issue was brought up in front of the group, he was in favor of eliminating outside providers and stay with the Commission and/or certified CPAs. In retrospect, it is very, very difficult to find CPAs with any gambling experience in this state. The initial concept of putting four or five FTEs to work exclusively doing these kinds of audits is still viable; however, there have been concerns about the extra cost that the industry may be causing the Commission by hiring extra people for the extra work. He said Mr. Balam has been doing work for them over the last several months and his people have worked rather well. He would rather have someone with four to six years of gaming experience doing an audit than a CPA who is only a certified CPA. He agrees it would be great to have both, but it is very tough to find a CPA with a gaming background. Mr. Balam's people would do a good job if limitations and qualifications are set, and the standards are high.

Commissioner Ludwig said it may be premature, but he would really like to have the staff's views on these two alternatives, and he is inclined to move today to adopt Mr. Balam's suggestion as an alternative. But the staff's recommendation concerning manpower and cost to the Commission, as well as to the operators, would be important to know before selecting a rule. **Chairperson McLaughlin** asked if the WSGC staff could come back at the next meeting with the information requested. **Director Bishop** said yes.

Bob Russell, of El Papagayo's Restaurant and Casino in Moses Lake, said he wanted to speak specifically to WAC 230-40-825, which has to do with close circuit television system requirements and procedures. The smaller operator is impacted with these requirements. They have five tables right now and the County population is only 65,000. They are probably the smallest market running, and they operate less than 12 hours per day and typically only have four tables going, except for on weekends. Based on the amount held and the drop, the business is getting to be fairly marginal and they may not survive. He urged the Commission to consider the impact of some of these regulations. Quarterly reviews may cost \$15,000, which is a lot more difficult for small operators to absorb. The \$10,000 licensing fee plus \$1,000 per table is a lot more for a smaller operator. The regulation under closed circuit television requires someone be in surveillance the entire time the gaming tables are open. Presently, they are allowed to use that same person for security, also, in case they need to do a drop. If he has to have two people, that would be another \$20-30,000 per year for another individual who will be doing fills and credits occasionally. He hoped the Commission would allow an alternative for smaller operators, such as a sliding scale. The rule for surveillance is probably for protecting the operators' assets, but the cumulative effect of the rules is they will put the smaller operator out of business.

Chairperson McLaughlin asked for further testimony.

Commissioner Forrest asked how widespread the problem is for the small operators. **Ms. Winslow** said the staff and others talked about how this would affect smaller operators and the additional burden of costs. The staff recognizes that this is a problem, but it is so important to have the additional controls and fully staffed surveillance to ensure the integrity of the operation.

Commissioner Ludwig asked about the \$10,000 cost plus \$1,000 per table and whether the staff has considered lowering the \$10,000 fee and raising the per table fee. He asked if that would help the small operator to some extent. **Ms. Winslow** said it would help the smaller operators, but the calculations are based on that schedule. If an adjustment were made, they would have to do a further analysis on FTE needs. **Commissioner Ludwig** said he was thinking of a way to strike a balance where the revenue would be similar in total, but less for the smaller operator without penalizing the larger operators. **Ms. Winslow** said that could be looked at if the Commission wants. **Director Bishop** said they wrestled back and forth with the fees. Regarding the two types of costs the Commission has, and also the administrative fees that include licensing and collecting reports, etc., but when it comes to the field regulation, there is a location cost. It costs a certain amount regardless of how many tables they have. It's a certain cost if they play only Blackjack, but costs increase when they start playing different games that require different procedures. The per-table costs actually came down and they are not typically as high as the location cost. That was the reason for settling on the fee at \$10,000, because that's what it costs regardless of the number of tables. He said the staff can look at it and he'd like to find an amount that is the fairest and also recovers the Commission's cost.

Commissioner Heavey said the problem in a small market is they don't get enough players, and if a place doesn't have a card room, the people are going to go someplace else to play cards, which means they will have to travel some distance and it will be less convenient. He asked if there is flexibility that reflects the fact that, if

players want to play at a more convenient location, it will cost more money. That way, the small market table or card room's attraction is convenience as opposed to a larger operation. **Ms. Winslow** said there is flexibility in the fees, but they are charged based on what the market will bear. She doesn't know if they are able to recover the costs when the operation is small. **Commissioner Ludwig** asked where someone in Moses Lake would go to gamble. **Ms. Winslow** said Richland.

Mr. Russell, from the audience, said he doesn't have a problem with the surveillance requirements, but he wants to be able to also utilize that person occasionally for drops. **Commissioner Heavey** said he would then be out of the room during that time. He said the Gambling Commission's function is to be sure there is adequate regulation to protect the public and not to ensure that anybody stays in business. He is not willing compromise regulation so someone can stay in business. That was a decision that was made very early in this process, because there were two levels of rules for five tables and fewer, or more than five tables. It was decided that wasn't in the public interest. **Ms. Winslow** said that, also, no one wanted to participate at the lower level because they couldn't make enough money.

Director Bishop asked if there is some flexibility in the internal controls so that a small operation, a bartender or waitress might be able to perform some of those "separation of duty" functions. **Ms. Winslow** said there are some specific requirements on what duties have to be separated. What Mr. Russell is referring to is a situation where he's got two employees and he just wants one person to handle both functions. **Director Bishop** said that for drops and fills, there must be a separation of functions. **Ms. Winslow** agreed and said it would be on the surveillance tape. **Director Bishop** said he hopes there would be some flexibility to allow the separation of duties, but in the case of using surveillance, one employee should not be taping something he is responsible for doing.

Mr. Tull asked what action the Commission has asked for. **Chairperson McLaughlin** said the Commission requested that the staff come forward at the next Commission meeting with their comments on this.

A. Card Room Definitions

Ms. Winslow said these are definitions, including (a) – (j), which are a majority of definitions of terms used within this rules package. There is nothing that would be of concern to anyone present today. **Chairperson McLaughlin** asked if anyone wished to testify, no one did.

B. Other Rules Relating to Card Games

Ms. Winslow said this portion of rules does not include anything of concern and is not in need of changes. Based on prior discussions with a licensee, she pointed out that this does include WAC 230-04-203—fees for commercial stimulants and other business organizations.

Chairperson McLaughlin called for public testimony for 4E (a) - (n). No one had comments.

Chairperson McLaughlin asked if there were any other comments and reminded the audience there will be more opportunities for comments at upcoming meetings. She thanked Ms. Winslow for the fine job of going over these many rules.

OTHER BUSINESS/GENERAL DISCUSSION/COMMENTS FROM THE PUBLIC

Chairperson McLaughlin asked if anyone wished to make comments.

DISCUSSION OF "PRIMARILY" COMMERCIAL STIMULANT

Commissioner Forrest said he had spoken to Director Bishop regarding responding to his concerns about laws and rules that don't seem to be consistent. It's true that conditions have changed a lot since the Legislature passed the basic statute, but the law remains, none the less. The Commission must do something to demonstrate that the requirement for businesses to be primarily engaged in the food and drink business. He

recognizes the practical difficulties that may exist with devising and imposing such a rule, but unfortunately, until the Legislature changes it (which he wishes they would), it is the law. If there is a committee dealing with this, the industry could initiate some legislative revisions. The Commission cannot ignore the law in the meantime.

Commissioner Forrest said he'd like to make a general request that Director Bishop examine ten of the largest operators and, if they appear to meet the prior rules, he is looking for some kind of formula to use to determine whether an establishment is in business "primarily" for food and beverages. He wants to avoid the comments such as, "why did establishment 'X' get a gambling license when there is never anyone in the restaurant?" He referred to a Supreme Court opinion mentioned by Mr. McCoy and said if there is an established stream of revenue, the first call is for a certain purpose, and if the rest of the revenue does not meet the requirement, then it should be limited in how it may be used. It's far different than saying the threshold entry to a license is some allocation. In the other cases cited by Mr. McCoy, they both refer to substantial amounts of income derived from the activity. In a different world, maybe the Legislature would say that if someone has a gambling license, they must have a full service restaurant open for business all hours when gambling is taking place. That way, "primarily" would not have to be defined.

Commissioner Forrest said this was originally a trade stimulant to help commercial establishments increase business. That is no longer the case. People are opening card rooms for the purpose of making money on the card rooms. He said he hopes the Chairperson doesn't think he's chasing willow wisps and that "if it ain't broke, don't fix it," but he's been a lawyer and a judge too long to feel comfortable with what he thinks these are inconsistent and a somewhat intellectually dishonest set of rules. He asked the Director to share with the Commission how serious the current situation is, and if any of the rest of the WSGC staff has any ideas as to how to resolve this. He doesn't think this is a technical legal problem, everyone has a rough idea of what primarily means and he is certainly not trying to shut down the industry because of what has been allowed to grow. If the Commission were to impose a harsh interpretation of the law, then the industry may be sufficiently stimulated to go to the Legislature and solve the problem; however, he said that is not the way the Commission operates. They have had a successful relationship with the industry and the Commission bears a lot of responsibility for having allowed the situation to culminate. He does not think the rules fairly implement the legislative standard. He said that, until the Legislature sees fit to change it, the Commission should develop some rules so if a legislator or law enforcement officer or some city that wants to prevent a gambling establishment from operating can't come in and say, "where did you find that this organization is primarily engaged in the food and beverage business?"

Commissioner Forrest said he welcomes any comment from the Commission and, rather than trying to hash it out at this meeting, he suggests the Commission and the staff should contemplate this for a month and reflect on developing a rule that is reasonably consistent with is now probably an out-moded legislative directive, but it is still legally binding on the Commission, the staff, and the industry.

Chairperson McLaughlin said she appreciates the opportunity to pick up the discussion at the next meeting. She said that, in her mind, she perceives "primarily" as meaning that it isn't a 7-Eleven or a gas station that has a card room. She would be very comfortable if it was a full-service restaurant that had to be opened at all hours that the gambling is taking place and staffed. She has a little trouble with making a percentage formula of some amount of food and drink that had to be sold everyday in order to have a gambling operation along with it.

Commissioner Forrest said it might be difficult to deny the very marginal establishments if there isn't some standard to point at and say, "you don't meet this." That's what troubles him, among other things.

Commissioner Heavey said he likes Chairperson McLaughlin's approach. At the minimum, a card room should have a restaurant that is staffed and open at all times that gambling is going on. If they don't have a full service menu, at least they should have a number of items on the menu so that somebody is going to a restaurant. Gambling is a trade stimulant, or it is supposed to be, and until the Legislature changes it, he said they ought to adhere to the policy that applies to commercial card rooms, punchboards, pull-tabs, etc.. It's not like a charity.

Chairperson McLaughlin called for any further comments from the Commission. **Commissioner Herbold** said she agrees and would like to see the information that Commissioner Forrest has requested from the Director and

the staff. **Chairperson McLaughlin** said the concurrence is that this would be a good thing to have at the next meeting.

Chairperson McLaughlin called for any public comments.

Bob Russell. El Papagayo's Restaurant, said he has a full service restaurant that is open before they are open for gambling. Gambling and eating don't always go together. They don't always have the full service restaurant available. The Liquor Board is actually beginning to back off and they require food available at all times that they are serving alcohol, which he agrees with, but they also don't have to have a full menu, just "substantial food." That would be something other than bar snacks and more along the line of sandwiches or pizza. He hopes the Commission will keep this in mind. The market dictates when the restaurant can sell food. He's had pizza available and takers. **Chairman McLaughlin** said the restaurant must be open to the general public, it's not just for the gamblers. **Mr. Russell** said they would be open 24 hours a day if business would allow it for the restaurant.

Commissioner Heavey said the statute dictates what the purpose of the card room is. If they want to have card rooms that are just in business to be card rooms, then they must go to the Legislature and have the law changed. It's not for the Commission to decide. **Mr. Russell** said his food and beverage sales equal what the card room generates in revenue. He has a full service restaurant but it's not viable until 2 a.m. The bar is open and food is available, but they can't make them eat, and there's not always a full service menu. **Chairperson McLaughlin** said she had said that she prefer that a full service restaurant was always open, but it wouldn't be required. She realizes that restaurants have cycles in which they are used.

MEETING ADJOURNED

Minutes submitted to the Commission for approval,

*Susan D. Yeager
Executive Assistant*